

PB# 89-47

TRI-FAM ASSOCIATES
WITHDRAWN

37-1-31 & 47-1-87

TRI-FAM ASSOCIATES (TECTONIC) #89-47
CEASAR'S LANE - SITE PLAN

Withdrawn 2/24/92
File Closed 9/5/92

General Receipt

11076

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, N. Y. 12550

Dec. 15 19 89

Received of

Triam Associates

\$

25.00
100

DOLLARS

For

Twenty Five and 100/100
P/B Application fee - #89-47

DISTRIBUTION

FUND	CODE	AMOUNT
<u>Check #25.00</u>		
<u>#305</u>		

By

Pauline J. Towne

Town Clerk

Title

Williamson Law Book Co., Rochester, N. Y. 14609

General Receipt

11075

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, N. Y. 12550

Dec. 15 19 89

Received of

Town Clerk

\$

4,000.00

DOLLARS

For

One thousand and 100/100
Stk Plan Grow - Triam Assoc. #89-47

DISTRIBUTION

FUND	CODE	AMOUNT
<u>Check #4,000.00</u>		
<u>#110</u>		

By

Pauline

Capell

Title

Williamson Law Book Co., Rochester, N. Y. 14609



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

45 QUASSAICK AVE. (ROUTE 9W)
NEW WINDSOR, NEW YORK 12550

TELEPHONE (914) 562-8640
PORT JERVIS (914) 856-5600

RICHARD D. McGOEY, P.E.
WILLIAM J. HAUSER, P.E.
MARK J. EDSALL, P.E.

Licensed in New York,
New Jersey and Pennsylvania

**PLANNING BOARD WORK SESSION
RECORD OF APPEARANCE**

TOWN OF New Windsor P/B # 89-47
WORK SESSION DATE: 4 Sept 90 APPLICANT RESUB.
REAPPEARANCE AT W/S REQUESTED: No REQUIRED: No.
PROJECT NAME: Trifar
PROJECT STATUS: NEW OLD
REPRESENTATIVE PRESENT: Don B / Don B / Frank N / John S
TOWN REPS PRESENT: BLDG INSP. Dino
FIRE INSP. Rich
ENGINEER X
PLANNER
P/B CHMN.
OTHER (Specify)

ITEMS TO BE ADDRESSED ON RESUBMITTAL:

hold plans in file
do not circulate to depts

For Zoning Concept discussion only
on 9/12/90

PLANNING BOARD
TOWN OF NEW WINDSOR

AS OF: 09/11/92

PAGE: 1

LISTING OF PLANNING BOARD ACTIONS

STAGE:

STATUS [Open, Withd]
W [Disap, Appr]

FOR PROJECT NUMBER: 89-47

NAME: TRIFAM CEASAR LANE TOWNHOUSES
APPLICANT: TRI-FAM ASSOCIATES (JOHN SMITCHGER)

--DATE--	MEETING-PURPOSE-----	ACTION-TAKEN-----
09/05/92	PAYMENT OF BALANCE RECEIVED	FILE CLOSED
02/24/92	LETTER FROM ATTORNEY	WITHDRAWAL
02/12/92	P.B. APPEARANCE	DISCUSSION ONLY
10/03/90	P.B. APPEARANCE	SITE VISIT - RETURN
03/28/90	P.B. APPEARANCE	TO RETURN
02/28/90	P.B. APPEARANCE . P.B. DOES NOT RECOMMEND ZONE CHANGE FOR LOT 2	FOR ZONE CHG. REC.
01/10/90	P.B. APPEARANCE	L.A. - TO RETURN
12/05/89	WORKSESSION	OPEN FILE

PLANNING BOARD
TOWN OF NEW WINDSOR

AS OF: 09/11/92

PAGE: 1

LISTING OF PLANNING BOARD FEES
Escrow

FOR PROJECT NUMBER: 89-47

NAME: TRIFAM CEASAR LANE TOWNHOUSES

APPLICANT: TRI-FAM ASSOCIATES (JOHN SMITCHGER)

--DATE--	DESCRIPTION-----	TRANS	AMT-CHG	AMT-PAID	BAL-DUE
12/05/89	SITE PLAN ESCROW	PAID		1000.00	
02/12/92	P.B. MINUTES	CHG	18.00		
03/04/92	P.B. ENGINEER FEE	CHG	1258.00		
09/05/92	PAYMENT OF BALANCE	PAID		276.00	
		TOTAL:	1276.00	1276.00	0.00

P.B. #89-47 Escrow (Additional)

534-7874
TRIFAM ASSOCIATES
270 MAIN ST.
CORNWALL, NY 12518

404

PAY TO THE ORDER OF Town of New Windsor \$ 276.00/100

Two hundred seventy-six and 00/100 DOLLARS

NORSTAR BANK
OF UPSTATE NY
CORNWALL OFFICE
CORNWALL, NY 12518-1125

MEMO # 89-47 Ellen M. Kelly

⑆02⑆3000⑆9⑆ 524 1010254⑆ 0404

SAFETY PAPER

Rec'd
Gapple
9/11/92

PLANNING BOARD
TOWN OF NEW WINDSOR

AS OF: 02/12/92

PAGE: 1

LISTING OF PLANNING BOARD AGENCY APPROVALS

FOR PROJECT NUMBER: 89-47

NAME: TRIFAM CEASAR LANE TOWNHOUSES

APPLICANT: TRI-FAM ASSOCIATES (JOHN SMITCHGER)

	DATE-SENT	AGENCY-----	DATE-RECD	RESPONSE-----
ORIG	12/06/89	MUNICIPAL HIGHWAY	01/05/90	SUPERSEDED BY REV1
ORIG	12/06/89	MUNICIPAL WATER	12/18/89	APPROVED
ORIG	12/06/89	MUNICIPAL SEWER . APPROVED SUBJECT TO AS-BUILT DRAWINGS UPON COMPLETION	12/19/89	APPROVED
ORIG	12/06/89	MUNICIPAL SANITARY . SECTION OF PROJECT NOT IN BOUNDARIES OF SD 9. NEED MORE INFO	12/18/89	DISAPPROVED
ORIG	12/06/89	MUNICIPAL FIRE . ROAD CONFIGURATION & BLDG. HT & NEED WATER MAINS & HYDRANTS	12/21/89	DISAPPROVED
ORIG	12/06/89	PLANNING BOARD ENGINEER	01/05/90	SUPERSEDED BY REV1
REV1	01/05/90	MUNICIPAL HIGHWAY . NEED BETTER LOCATION FOR ENT. & EXIT - NO DRAINAGE LAYOUT	01/12/90	DISAPPROVED
REV1	01/05/90	MUNICIPAL WATER	01/12/90	APPROVED
REV1	01/05/90	MUNICIPAL SEWER . CONDITIONAL-TO SUBMIT AS-BUILT DRAWINGS OF CONNECTIONS	02/05/90	APPROVED
REV1	01/05/90	MUNICIPAL SANITARY . NO INFORMATION REGARDING SEWER SERVICE	01/05/90	DISAPPROVED
REV1	01/05/90	MUNICIPAL FIRE . WATER MAINS AND FIRE HYDRANTS NOT SHOWN	01/22/90	DISAPPROVED
REV1	01/05/90	PLANNING BOARD ENGINEER	/ /	



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

September 9, 1992

Tri-Fam Associates
C/O Mr. John Smitchger
270 Main Street
Cornwall, NY 12518

SUBJECT: BALANCE DUE FOR PLANNING BOARD
APPLICATION #89-47

Dear Mr. Smitchger:

As per our telephone conversations of April 23, 1992 and July 16, 1992, please find attached a breakdown showing the balance due to the Town of New Windsor on your Planning Board project located on Ceasar's Lane in the Town of New Windsor.

Your prompt attention to this matter is greatly appreciated.

Very truly yours,

Myra L. Mason
Myra L. Mason,
Secretary to the Planning Board

PLANNING BOARD
TOWN OF NEW WINDSOR

AS OF: 01/01/80

PAGE: 1

LISTING OF PLANNING BOARD FEES
Escrow

FOR PROJECT NUMBER: 89-47

NAME: TRIFAM CEASAR LANE TOWNHOUSES

APPLICANT: TRI-FAM ASSOCIATES (JOHN SMITCHGER)

--DATE--	DESCRIPTION-----	TRANS	AMT-CHG	AMT-PAID	BAL-DUE
12/05/89	SITE PLAN ESCROW	PAID		1000.00	
02/12/92	P.B. MINUTES	CHG	18.00		
03/04/92	P.B. ENGINEER FEE	CHG	1258.00		
			-----	-----	-----
		TOTAL:	1276.00	1000.00	276.00

PLANNING BOARD
TOWN OF NEW WINDSOR

AS OF: 03/16/92

PAGE: 1

LISTING OF PLANNING BOARD FEES
Escrow

FOR PROJECT NUMBER: 89-47

NAME: TRIFAM CEASAR LANE TOWNHOUSES

APPLICANT: TRI-FAM ASSOCIATES (JOHN SMITCHGER)

--DATE--	DESCRIPTION-----	TRANS	AMT-CHG	AMT-PAID	BAL-DUE
12/05/89	SITE PLAN ESCROW	PAID		1000.00	
02/12/92	P.B. MINUTES	CHG	18.00		
03/04/92	P.B. ENGINEER FEE	CHG	1258.00		
			-----	-----	-----
		TOTAL:	1276.00	1000.00	276.00

3/3/92 Eng. 1258.00

Bloom & Bloom, P.C.

ATTORNEYS AND COUNSELORS AT LAW

DANIEL J. BLOOM
PETER E. BLOOM

530 BLOOMING GROVE TURNPIKE
(AT THE PROFESSIONAL CIRCLE)
P.O. Box 4323
NEW WINDSOR, NEW YORK 12553
TELEPHONE (914) 561-6920
FAX: 914-561-0978

February 24, 1992

Planning Board of the
Town of New Windsor
New Windsor Town Hall
555 Union Avenue
New Windsor, New York 12553

Attention: Myra

RE: APPLICATION OF TRIFAM ASSOCIATES #8947
(Our File Reference:
SMITCHGER/RONSINI and KELLY
with NEW WINDSOR PLANNING BOARD
Our File No. 9163)

Dear Myra:

In furtherance of directions received from the New Windsor Planning Board at its regularly scheduled meeting on February 12, 1992, and as attorney for the above-referenced applicant, I write to confirm that the applicant hereby withdraws its pending application before the Planning Board (#8947) without prejudice to renewing the application after it has completed excavation of the site pursuant to the mining permit which it obtained from the New York State Department of Environmental Conservation dated April 26, 1991.

Thank you.

Very truly yours,



DANIEL J. BLOOM
DJB/bk

cc: TriFam Associates
c/o Mr. John Smitchger
270 Main Street
Cornwall, New York 12518

TOWN OF NEW WINDSOR

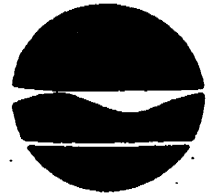
TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12550

TO Frances Roth 389 Morris Hill Rd DR.

New Windsor, NY 12553

DATE			CLAIMED	ALLOWED
2/12/92	Planning Board Meeting		75 00	
	Miscellaneous - 3 pgs		10 50	
	Nugent - 1 pg		4 50	
	CRB - 9 pgs 90-31		40 50	
	Jagger - 4 pgs 92-5		18 00	
	Walter's - 1 pgs 92-6		31 50	
	Trisam - 4 pgs 89-47		18 00	
	Pena - 1 pg 92-4		4 50	
	Washington Green - 3 pgs		13 50	
	Hilltop - 5 pgs		22 50	
		3/3/92	241 50	

New York State Department of Environmental Conservation
Region 3
21 South Platt Corners Road
New Paltz, NY 12561-1696
914-255-5453



Thomas C. Jorling
Commissioner

Date: 12/17/91

Re: Source(s) of Air Contamination
DEC Permit No.: 3-3348-113/2-0
Facility ID No.:
Owner ID No.: 24890

Dear Applicant:

Enclosed please find your approved Permit(s) to Construct:

Emission Point(s): SCRO1

Important: Upon completion of construction, please sign and date the permit(s) in box number 155 and return it to the Division of Regulatory Affairs as your application for a Certificate to Operate. In addition, please return the bottom portion of this form with the signed permit in order to expedite processing.

If you have any questions regarding your permit(s), please contact the Division of Regulatory Affairs at the above address and telephone number. Please retain the above numbers for your records and reference the Facility and Owner ID numbers in all future correspondence related to this permit. Thank you for your cooperation.

Respectfully,

* Please include application fee
of \$50.00.

A. Ciesluk
Division of Regulatory Affairs
Region 3

-----detach here-----

To: Division of Regulatory Affairs,
Attention A. CIESLUK

Re: Facility ID Number: 3-3348-113
Owner ID Number: 24890

Attached please find a signed application for a Certificate to Operate a Source of Air Contamination. Please process expeditiously.

SPECIAL CONDITIONS

For Article 23 (Mined Land Reclamation)

1. All erosion, sedimentation and pollution control measures depicted on the approved plans and described in the approved narrative shall be fully in place prior to commencement of mining and maintained in good order for the duration of work.
2. Screening berms shall be retained/constructed as depicted on the approved plans preserving existing vegetation where shown. Berms shall be promptly vegetated as shown on the sections and details plan.
3. In accordance with the approved details plan, a minimum 50 foot long stone-lined truck wheel mud cleaning pad shall be installed at the entrance to the mine prior to commencement of work.
4. The permittee shall notify the Region 3 Mined Land Reclamation Specialist upon completion of construction of all precautionary measures required per the above conditions #1 and 2. Mining shall not commence until all such measures have been approved by the Department.
5. Mining shall progress in the direction indicated on the approved plans.
6. Hours of operation are limited to 8:00 a.m. to 4:00 p.m Monday thru Saturday. No mining is permitted on any legal holidays or Sundays.
7. Topsoil shall be stockpiled and temporarily stabilized by seeding with grasses for re-use in final reclamation. Securely staked silt fencing shall be installed at the downgrade toe of each stockpile.
8. Processing of material is limited to use of a portable screen plant operated in accordance with an Air Pollution Control permit being issued concurrently with the mining permit.
9. The sedimentation basin shall be excavated out on a monthly basis or when sediment accumulation reaches a depth of 6 inches, whichever is more frequent.
10. Discharge of sediment laden water to any streams or areas beyond the boundary of the mine is prohibited.
11. Upon completion of mining, the slopes and mine floor shall be revegetated as required in 6NYCRR Part 422.3. An alternate reclamation plan to include an Office Condominium Complex will be considered only upon submission of an approved plan by the Town of New Windsor.

DEC PERMIT NUMBER

3-3348-113/1

continued on next page....

FACILITY ID NUMBER

PROGRAM NUMBER

Page 4 of 5

ADDITIONAL GENERAL CONDITIONS FOR ARTICLE 23, Title 27 (Mined Land Reclamation)

10. Any required reclamation bond or other surety, in an amount determined by the Department, shall be maintained in full force and effect during the mining operation. Such a bond or other surety shall not be terminated until the reclamation of the mined area is approved by the Department in writing.
11. The permittee shall not deviate or depart from the approved mined land use plan without approval by the Department of an alteration or modification thereto.
12. If the permittee decides to discontinue operation, a termination notice must be filed 60 days prior to the scheduled temporary or permanent cessation of mining.
13. The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when notification is provided, be it written or verbal, at least 24 hours prior to such inspection.
14. If any archaeological or structural remains are encountered during excavation, the permittee must immediately cease, or cause to cease, all work in the area of the remains and notify the NYSDEC Regional Office. Work shall not resume until written permission to do so has been received from the Department.
15. Unless expressly provided for, the issuance of this permit does not apply to any structures contained on the plans or in the specifications, nor does this permit apply to safety aspects of the operation and/or reclamation plan.
16. The enclosed permit and permit sign must be conspicuously posted in a publicly accessible location at the project site. They must be visible, legible and protected from the elements at all times.
17. All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or his agent as part of the permit application.

Such approved plans were prepared by See pg. 1

on _____

SPECIAL CONDITIONS

CONTINUED ON NEXT PAGE

DEC PERMIT NUMBER

3-3348-113/1

PROGRAM/FACILITY NUMBER

DEC PERMIT NUMBER 3-3348-113/1
FACILITY/PROGRAM NUMBER(s) Mine File No. 3023-30-0512

PERMIT
Under the Environmental Conservation Law (ECL)

EFFECTIVE DATE December 17, 1991
EXPIRATION DATE December 12, 1996

TYPE OF PERMIT (Check All Applicable Boxes)

☒ New ☐ Renewal ☐ Modification ☐ Permit to Construct ☐ Permit to Operate

<input type="checkbox"/> Article 15, Title 5: Protection of Water	<input type="checkbox"/> Article 17, Titles 7, 8: SPDES	<input type="checkbox"/> Article 27, Title 9; 6NYCRR 373: Hazardous Waste Management
<input type="checkbox"/> Article 15, Title 15: Water Supply	<input type="checkbox"/> Article 19: Air Pollution Control	<input type="checkbox"/> Article 34: Coastal Erosion Management
<input type="checkbox"/> Article 15, Title 15: Water Transport	<input checked="" type="checkbox"/> Article 23, Title 27: Mined Land Reclamation	<input type="checkbox"/> Article 36: Floodplain Management
<input type="checkbox"/> Article 15, Title 15: Long Island Wells	<input type="checkbox"/> Article 24: Freshwater Wetlands	<input type="checkbox"/> Articles 1, 3, 17, 19, 27, 37; 6NYCRR 380: Radiation Control
<input type="checkbox"/> Article 15, Title 27: Wild, Scenic and Recreational Rivers	<input type="checkbox"/> Article 25: Tidal Wetlands	<input type="checkbox"/> Other: _____
<input type="checkbox"/> 6NYCRR 608: Water Quality Certification	<input type="checkbox"/> Article 27, Title 7; 6NYCRR 360: Solid Waste Management	

PERMIT ISSUED TO Trifam Associates			TELEPHONE NUMBER ()
ADDRESS OF PERMITTEE 270 Main St., Cornwall, NY 12518			
CONTACT PERSON FOR PERMITTED WORK John Smitchger			TELEPHONE NUMBER (914) 534-7874
NAME AND ADDRESS OF PROJECT/FACILITY Sand and gravel mine at future development site northwest of the intersection of Caesars Lane with Route 9-W			
LOCATION OF PROJECT/FACILITY As above			
COUNTY Orange	TOWN/VILLAGE New Windsor	WATERCOURSE/WETLAND NO.	NYTM COORDINATES E: _____ N:4 _____
DESCRIPTION OF AUTHORIZED ACTIVITY Mine sand and gravel from a maximum of 6.7 acres in accordance with mining and reclamation plans dated November 29, 1990 prepared by Tectonic Engineering Consultants, Sections and Details plan dated July 25, 1991 and a revised Mined Land Use Plan narrative dated October, 1991 and as conditioned herein.			

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, the General Conditions specified (See Reverse Side) and any Special Conditions Included as part of this permit.

PERMIT ADMINISTRATOR, Deputy Alexander F. Ciesluk, Jr.	ADDRESS 21 South Putt Corners Road New Paltz, NY 12561	IGB
AUTHORIZED SIGNATURE <i>Alexander F. Ciesluk, Jr.</i>	DATE 12/17/91	Page 1 of 5

New York State Department of Environmental Conservation

21 South Putt Corners Road, New Paltz, NY 12561
(914) 255-5453 or (914) 255-3121



Thomas C. Jorling
Commissioner

IMPORTANT NOTICE TO ALL PERMITTEES.

The permit you requested is enclosed. Please read it carefully and note the special conditions that are included in it. The permit is valid for only that activity expressly authorized therein; work beyond the scope of the permit may be considered a violation of law and be subject to appropriate enforcement action.

If the permit is associated with a project that will entail construction of new pollution control facilities or modification to existing facilities, plan approval for the system design will be required from the appropriate Departmental Office or delegated local health department.

Please note the expiration date of the permit. Applications for permit renewal should be made well in advance of the expiration date. For specific instructions contact the office below.

IMPORTANT:

The following numbers pertain to this permit and should be retained for your records:

DEC PERMIT NO: 3-3348 - 113 12 -0
PROGRAM ID NO: Mine File No: 3 023-30-0512
OWNER ID NO: 24890

These numbers should be referenced on all correspondence related to this permit. Future applications for permits associated with this facility/project area should also reference the Program ID NO. and your Owner ID NO.

If you have any questions on the extent of work authorized or your obligations under the permit, please contact the staff person indicated below.

Lawrence G. Biege

Division of Regulatory Affairs
Region 3



KEY BANK OF NEW YORK N.A.
INTERNATIONAL DIVISION
66 SOUTH PEARL STREET
ALBANY, NEW YORK 12207-1501

*Rec'd.
TA office -
5/18/92 -*

TELEX NUMBER MCI 6716404 KEYBKNA

DATE: MAY 15, 1992

IRREVOCABLE STANDBY LETTER OF CREDIT NO. S101241

*cc: Compt.
B.I.*

BENEFICIARY
TOWN OF NEW WINDSOR
555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

APPLICANT
TRIFAM ASSOCIATES
270 MAIN STREET
CORNWALL, NEW YORK 12518

DEAR SIR(S),

WE HEREBY AUTHORIZE YOU TO DRAW YOUR DRAFTS AT SIGHT ON KEY BANK OF NEW YORK N.A., ALBANY, NEW YORK, UP TO AN AGGREGATE AMOUNT OF US\$12,000.00 (TWELVE THOUSAND AND 00/100 U.S.DOLLARS).

PARTIAL DRAWINGS ARE PERMITTED.

PRESENTATION OF THE ORIGINAL LETTER OF CREDIT AND ANY AMENDMENTS THERETO ARE REQUIRED FOR ANY DRAWINGS HEREUNDER.

THIS LETTER OF CREDIT SETS FORTH IN FULL THE TERMS OF OUR UNDERTAKING AND SUCH AN UNDERTAKING SHALL NOT IN ANY WAY BE MODIFIED, AMENDED OR AMPLIFIED BY REFERENCE TO ANY DOCUMENTS, INSTRUMENTS OR AGREEMENTS REFERRED TO HEREIN, OR IN WHICH THIS LETTER OF CREDIT IS REFERRED TO OR TO WHICH THIS LETTER OF CREDIT RELATES AND ANY SUCH REFERENCE SHALL NOT BE DEEMED TO INCORPORATE HEREIN BY REFERENCE ANY SUCH DOCUMENTS, INSTRUMENTS OR AGREEMENTS.

EXCEPT SO FAR AS OTHERWISE EXPRESSLY STATED, THIS STANDBY LETTER OF CREDIT IS SUBJECT TO THE "UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS" 1983 REVISION INTERNATIONAL CHAMBER OF COMMERCE PUB. NO. 400 AND WHERE NOT APPLICABLE, THIS LETTER OF CREDIT IS GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

DRAFTS MUST BE MARKED "DRAWN UNDER KEY BANK OF NEW YORK N.A., ALBANY, NEW YORK LETTER OF CREDIT NO. S101241-MAY 15, 1992."

WE ENGAGE WITH YOU THAT ALL DRAFTS AND DOCUMENTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT WILL BE DULY HONORED BY US ON DELIVERY OF DOCUMENTS AS SPECIFIED IF PRESENTED AT THE OFFICE ON OR BEFORE MAY 15, 1993.

YOURS FAITHFULLY,
KEY BANK OF NEW YORK N.A.

[Signature]
AUTHORIZED SIGNATURE

[Signature]
AUTHORIZED SIGNATURE

Bloom & Bloom, P.C.
ATTORNEYS AND COUNSELORS AT LAW

DANIEL J. BLOOM
PETER E. BLOOM

530 BLOOMING GROVE TURNPIKE
(AT THE PROFESSIONAL CIRCLE)
P.O. BOX 4323
NEW WINDSOR, NEW YORK 12553
TELEPHONE (914) 561-6920
FAX: 914-561-0978

March 22, 1991

Mr. Carl Schiefer, Chairman
New Windsor Planning Board
New Windsor Town Hall
555 Union Ave.
New Windsor, New York 12553

RE: APPLICATION OF TRI-FAM ASSOCIATES
(SMITCHGER, RONSINI AND KELLY)
OUR FILE #9163

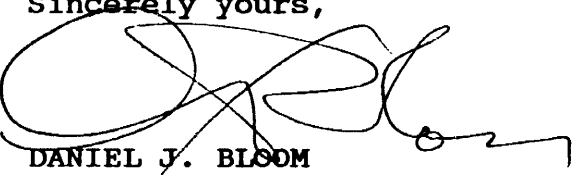
Dear Mr. Schiefer:

Pursuant to instructions from the New Windsor Planning Board, our above-referenced client submitted a formal application for a "Mining Permit" to the Zoning Board of Appeals of the Town of New Windsor. After presenting its position to the New Windsor Zoning Board of Appeals at one of its regularly scheduled meetings, that Board declined to entertain the application for the reasons more particularly set forth in correspondence to the undersigned from Daniel S. Lucia, Esq., attorney for the New Windsor, Zoning Board of Appeals dated February 28, 1991, (a copy of which I enclose for your consideration).

Accordingly, I would respectfully request on behalf of our client that your Board reschedule this matter for a meeting with the applicant, at which time, possible additional alternatives may be discussed and your guidance be forthcoming.

Thank you for your continuing courtesy and cooperation in this matter.

Sincerely yours,



DANIEL J. BLOOM
DJB/pc
Encl.

cc: Mr. John Smitchger
Mark J. Edsall, P.E.

DANIEL S. LUCIA
ATTORNEY-AT-LAW
343 TEMPLE HILL ROAD
NEW WINDSOR, NEW YORK 12553

TELEPHONE
(514) 861-7700

February 28, 1991

Daniel J. Bloom, Esq.
Bloom & Bloom, P.C.
530 Blooming Grove Turnpike
P.O. Box 4323
New Windsor, New York 12553

Re: Tri-Fam Assocs.

Dear Dan:

Confirming our recent telephone conversation, please be advised that the Town of New Windsor Zoning Board of Appeals does not wish to entertain the above applicant's request for a use variance for a mining operation in connection with proposed development of a condominium office not permitted in the R-4 zone. (Neither mining nor a condominium office are permitted uses in the R-4 zone.)

The ZBA declines to entertain the use variance for a mining operation on the grounds that regulation of mining operations appears to be preempted by the New York State Department of Environmental Conservation under the provisions of Environmental Conservation Law 23-2703 (2).

As the applicant progresses through the various stages of approvals necessary for this project, the ZBA would be happy to entertain a use variance application for a condominium office in the R-4 zone, if the applicant chooses to pursue that use variance. However, I believe that the ZBA would appreciate your scheduling another preliminary meeting on that application before we proceed to a public hearing.

If you have any questions, please do not hesitate to call me.

Very truly yours,

Daniel S. Lucia

DSL:rm

cc: ZBA members
Mark J. Edsall, P.E.



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

RICHARD D. McGOEY, P.E.
WILLIAM J. HAUSER, P.E.
MARK J. EDSALL, P.E.

- ☐ **Main Office**
45 Quassaick Ave. (Route 9W)
New Windsor, New York 12553
(914) 562-8640
- ☐ **Branch Office**
400 Broad Street
Milford, Pennsylvania 18337
(717) 296-2765

7 January 1992

MEMORANDUM

TO: Richard D. McGoeY, P.E., Engineer for the Town

FROM: Mark J. Edsall, P.E., Planning Board Engineer

SUBJECT: TRI-FAM ASSOCIATES MINING PERMIT

I have received your memorandum dated 2 January 1992 with regard to the subject matter. Please be advised that initially, during September 1989, Tri-Fam Associates requested the signature of the Town Supervisor on a Mining Permit Application Form for the site. Since the Town Zoning Code did not reflect commercial mining operations as permitted uses in the residential zone, the Supervisor referred this request to the Planning Board for consideration. Inasmuch as the Applicant had an active site plan application before the Planning Board for the site (P/B No. 89-47), the possibility was discussed that the earthwork could be considered as part of the proposed site plan work. Given the significant amount of grading associated with the project, the Planning Board indicated a preference that the Applicant proceed with the Mining Permit (and mining operations), returning to the Planning Board with a site plan, once this earthwork has been substantially completed.

With regard to the zoning consideration of the mining operation, initially it was thought that the Applicant would require either a variance or modification in the Zoning Regulations, such that the mining operation would be allowed. This understanding was subsequently found incorrect, pursuant to information I received while attending the 1991 Association of Towns conferences. During one presentation, review of mining operations on a local level was discussed. Case law in connection with such local reviews was presented. The presentation made it very clear that a statutory preemption exists under the provisions of the Environmental Conservation Law, 23-2703(2), which gives the NYS Department of

7 January 1992

MEMORANDUM

-2-

Environmental Conservation sole jurisdiction for review of mining operations. The only approval which appears necessary from the Town is with regard to the "curb-cut" onto Caesars Lane, associated with the commercial operation. This review authority would likely fall under the jurisdiction of the Highway Superintendent; however, at the 24 April 1991 Planning Board meeting, the Applicant agreed to discuss this matter further with the Planning Board, once the Mining Permit was obtained (it is unclear if any approval action by the Board would be appropriate following this discussion).

In closing, please be advised that no Planning Board approval was granted for the mining operation, nor is same appropriate under the provisions of the State law.

Respectfully submitted,


Mark J. Edsall, P.E.
Planning Board Engineer

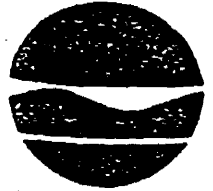
MJE:mk

cc: Michael Babcock, Town Building Inspector
Carl Schiefer, Planning Board Chairman

A:1-7-E.mk

New York State Department of Environmental Conservation
Region 3
21 South Putt Corners Road
New Paltz, NY 12561-1696
914-255-5453

CC: T/B
Planning Board



Thomas C. Jorling
Commissioner

Dear Supervisor or Mayor:

The enclosed copy of a Notice of Complete Application is being provided to inform the public officials of your community of the submission of an application for Departmental permit.

It would be most appreciated if a copy could also be posted in a public building where other interested persons in your community might also see it and have an opportunity to provide us with their comments.

Further information can be obtained from the Department representative named at the bottom of the notice.

Regulatory Affairs
Region 3

APR 30 1987

NOTICE OF COMPLETE APPLICATION

Applicant: Trifam Associates c/o John SmitchgerDate: April 26, 1991Address: 270 Main StreetCornwall, NY 12518Permits applied for and application numbers Mined Land #3-3348-113/1-0Project description and location. Town ~~XXX~~ of New Windsor County of Orange

The applicant proposes to mine sand and gravel from a total of approximately 6.7 acres over a projected timeframe of four years. Topsoil will be stockpiled for use in reclamation and an estimated 260,000 cubic yards of material will be removed. Material will be sold as "run of bank" with no processing involved. Excavation is proposed in anticipation of future construction of an office/condominium on this site located northwest of the intersection of Caesars Lane with Route 9W.

STATE ENVIRONMENTAL QUALITY REVIEW (SEQR) DETERMINATION: (Check appropriate box)

- ☐ SEQR-1 Project is not subject to SEQR because it is an exempt, excluded or a Type II action.
- ☐ SEQR-2 Project is a Type I action and will not have a significant effect on the environment. A Negative Declaration is on file and a coordinated review with other agencies performed.
- ☒ SEQR-3 Project is an unlisted action and will not have a significant effect on the environment, a Negative Declaration is on file:
- ☐ A--coordinated review performed ☒ B--no coordinated review performed.
- ☐ SEQR-4 A draft environmental impact statement has been prepared on this project and is on file.
- ☐ SEQR-5 A final environmental impact statement has been prepared on this project and is on file.
- ☐ SEQR-6 Project is an Unlisted Action. Mitigation measure required by the Lead Agency will modify the proposed action so that no significant adverse environmental impacts will result. A Conditioned Negative Declaration is on file.

SEQR LEAD AGENCY None designated

STATE HISTORIC PRESERVATION ACT (SHPA) DETERMINATION: (Check appropriate box)

- ☐ SHPA-0 The proposed project is not subject to SHPA review.
- ☐ SHPA-1 No registered, eligible or inventoried archeological or historic sites were identified at the project location.
- ☐ SHPA-2 Based on an assessment, the proposed project will not cause any change to registered, eligible or inventoried archeological or historic sites.
- ☐ SHPA-3 A cultural resources survey is on file. No archeological or historic sites were identified at the project location.
- ☒ SHPA-4 A cultural resources survey is on file. The NYS Office of Parks, Recreation and Historic Preservation has determined that the proposed activity will have no impact on registered or eligible archeological or historic sites.
- ☐ SHPA-5 A cultural resources survey is on file. The NYS Office of Parks, Recreation and Historic Preservation has determined that the proposed activity will have an impact on registered or eligible archeological or historic sites.

AVAILABILITY FOR PUBLIC COMMENT:

The application may be reviewed at the address to the right. Written comments on the project must be submitted to the Contact Person by no later than:

May 31, 1991

CONTACT PERSON:

Lawrence G. Biegel *LB*
 NYSDEC
 21 South Putt Corners Road
 New Paltz, NY 12561-1696
 (914) 255-3121

1. THIS IS NOT A PERMIT

2. This is to advise you that your application is complete and a review has commenced. Additional information may be requested from you at a future date, if deemed necessary, in order to reach a decision on your application.
3. Your project is classified MAJOR. Accordingly, a decision will be made within 90 days of the date of this Notice. If a public hearing is necessary, you will be notified within 60 days and the hearing will commence within 90 days of the date of this notice. If a hearing is held, the final decision will be made within 60 days after the hearing is completed.
4. Publication of this Notice in a newspaper is: ☒ required ☐ not required
- If required, please consult the accompanying transmittal letter for further instructions.

CC: Chief Executive Officer Town of New Windsor
 Environmental Notice Bulletin, Room 509, 50 Wolf Road, Albany, N.Y. 12233-4500
 File

cc: R. Martin (w/complete application)
 Tectonic Engineering Consultants

4-24-91

TRI-FAM (89-47) CEASAR'S LANE

Daniel Bloom, Esq. and Don Benvie of Tectonic Engineering came before the Board representing this proposal.

MR. BLOOM: Good evening, gentlemen, I'd just like to say it's very briefly it's been a long evening for you. I'm here very briefly to bring you up-to-date with respect to our application to the Zoning Board of Appeals or our discussion, I should say, with the Zoning Board of Appeals upon recommendation from this Board.

You recall the last time we were before the Board, I believe it was the thought of the Board that we would go to the Zoning Board of Appeals in the hope of getting some guidance from them or perhaps a special permit for the purpose of obtaining the necessary mining permit so that we can commence the excavation necessary to bring this site down to the proper level so that this Board can make a determination as to what type of plan to proceed with. And basically, whether or not a decision would be made by this Board at that time to make a recommendation to the Town Board concerning a change in zoning. And I believe upon recommendation from the engineer to the Board, it was the thought of this Board, I think at the time, that we should bring the site down to proper level so that an intelligent determination on-site can be made by this Board and to do that, we were sent to the Zoning Board of Appeals. When we spoke to the Zoning Board of Appeals, they took the position, after I would say about a two week delay, I received a communication from their attorney indicating that it was their thought that they had no jurisdiction in the matter because they felt the DEC had pre-empted the question of mining permits in the town and basically had assumed lead agency status under the circumstances and their feeling was that whatever the DEC determined was the proper course of action to be followed.

Now, that being the case, we felt it appropriate to come back to this Board and say gentlemen, we are, we feel that we have gone as far as we can with the Zoning Board of Appeals. We are coming back to you basically for your advise this evening. I can tell you that at the present time, the DEC is in possession of all of the documentation that they have advised my client that they need at this point in order to make a

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determination to issue the necessary mining permit. The archaeological reviews are in, all the tests are in. It's my understanding that they indicated that perhaps as early as two months from now, they will be in a position to actually issue a permit, subject to the approval of course of this Board. In the course of that procedure too, I'm advised that they are going to be commencing advertising in the very near future as they must do under SEQRA so that the appropriate notification will be going out to the surrounding landowners, should they have any concerns in that regard. I have, as you know, Mr. Don Benvie with me this evening who is the engineer on the project, and I would defer to Don with respect to any questions that you may have in terms of the specifics of the excavation and the site plan.

MR. LANDER: Before we get to Don, did you not say that the DEC was the one that is going to recommend whether or not you have a mining permit for that site or not?

MR. BLOOM: They are indicating so far it's my impression from the DEC that they are processing at the present time an application for a mining permit. However, they do recognize the fact that we are of course governed by the local rules and regulations of the town. This particular town has of course no particular, as far as we know, provisions dealing with the issuance of a mining permit and for that reason, we were sent to the Zoning Board of Appeals. They just did not want to make a determination specifically as to whether or not we should apply for it in the nature of a variance or an interpretation. They just took the position, they felt that the area was pre-empted by the DEC.

MR. EDSALL: Maybe I can shed some light and Dan if you have talked to the Zoning Board attorney, you might be able to assist me in reiterating some of the information that Dan and I gathered at the Association of Towns this year when we were attending a conference and both turned to each other as we heard one topic discussed, i.e. Tri-Pam's mining permit. The case, as Mr. Ronald Blass, attorney with Van De Water and Van De Water was giving a presentation on local mining operations and the Local Law jurisdiction for those operations and the two cases that they refer to which purely indicated that there was a statutory

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pre-emption that did not permit local municipalities, such as Planning Boards and Zoning Boards, from reviewing the mining operation. It was a case, Northeast Mines Incorporated versus the Town of Smithtown and more importantly, it's Fru-run (phonetic) Gravel versus the Town of Carol, New York. In both of those cases and many more that are in this form, I have basically indicated that there was a statutory pre-emption where the DEC had sole jurisdiction and the local municipality had jurisdiction for road accesses and such items as drainage onto town facilities but the actual mining operation did not fall under the purview of the town to review. We were not aware of that. It was formulation which we became aware of on the morning or rather the afternoon of February 19th of this year and I just happen to be sitting in the conference with Dan Lucia and pursuant to that, Dan wrote the letter so--

MR. BLOOM: Now, I know the reference in the letter, where it comes from.

MR. EDSALL: Here is the copies that we made. To be very candid, Dan Lucia and I were not aware of that. We now are and that was the basis for the Zoning Board removing themselves from the discussion. Based on that information, unless Andy or Dan have different information, I would submit that mining permit is purely under the jurisdiction of the DEC and when they complete that operation, and they come back to the Board for a site plan, so be it.

MR. LANDER: Is there anything on the New Windsor books about mining operations?

MR. EDSALL: To be candid with you, the court has said it doesn't matter what the local town says.

MR. LANDER: In an R-4 zone?

MR. EDSALL: There's nothing in there and furthermore, from what Dan and I gather from this court information, they are indicating that the law was created with the jurisdiction being at DEC level so that you could not frustrate those operations.

MR. LANDER: We have nothing on our books about mining operations?

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MR. EDSALL: We see nothing to restrict it nor permit it.

MR. SCHIEFER: What are you planning, Pon?

MR. LANDER: I'm not planning anything. I thought somewhere in that book that I read that a mining permit is not allowed in the Town of New Windsor in an R-4 zone. Now, that's why I brought it up. That's why I asked Mark.

MR. EDSALL: To be honest with you, I have not seen anything and--

MR. LANDER: It's a moot point anyway because the State is the one that's going to either grant the permit or not.

MR. EDSALL: One of the quotes in here is that what appears to be from the courts local regulations dealing with actual mining operations would frustrate the statutory pre-emption doctrine so they have made a determination, even if you have it, you can't have it.

MR. LANDER: But there's nothing--I just asked if we had that in our local code.

MR. EDSALL: I haven't seen it. I would say that the only restriction would be if Skip Payo has any concerns relative to the damage done to the roadway, the effect of any drainage modifications or requirements but the actual mining operation itself from what Dan Lucia and I have seen and have been educated on in February, we don't have the jurisdiction.

MR. SCHIEFER: Okay, we can take no action. We sit back and wait until the DEC issues a mining permit.

MR. BABCOCK: Should we ask the applicant to withdraw his application?

MR. EDSALL: They have an application for site plan. If you care to leave that in place--

MR. BENVIE: We'd like to leave that in place because our intention is to proceed with the site plan development that's the whole idea of doing the grading, the mining of the property so we can--

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MR. VAN LEEUWEN: How long is it going to take for them to mine this property?

MR. BENVIE: At this point, really hasn't been a schedule. We have indicated in the report that the mining period will be approximately I think it's three years.

MR. VAN LEEUWEN: Leave that application hanging for three years, a little unfair to us. I would prefer to withdraw it right now, if it's going to be in the inactive file.

MR. SCHIEFER: Three (3) years inactive.

MR. BENVIE: Before we withdraw, I'd like to get with our client because we would probably, you know, the process takes a period of time, we'd like to do it in tandem while they are doing the mining operation.

MR. VAN LEEUWEN: No, we went out there and inspected it. Carl was there, John and we want to see all the dirt out of there before we go any further on it. That's, I forget who was with us.

MR. SCHIEFER: I was there.

MR. VAN LEEUWEN: John, Carl, I was there. Who else then?

MR. BENVIE: If that's the preference then--

MR. VAN LEEUWEN: The application is going to sit all the time it's not fair to people who work at the Town Hall.

MR. BENVIE: We can agree with that.

MR. BLOOM: We'll withdraw the application. One question I have if, as and when the necessary mining permits are issued from the DEC, do you feel that we, do you feel that we could freely proceed at that point, proceed with the excavation or do you feel we should come back to you with a permit for some input in terms of collateral issues in terms of possible access and--

MR. VAN LEEUWEN: I think you should come back to us.

MR. BLOOM: That being the case, do you want the

THIS MEETING IS DEDICATED TO THE MEMORY OF JOHN PAGANO

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application withdraw at this point or leave it?

MR. VAN LEEUWEN: Hold onto it until you get the permit.

MR. BLOOM: At least it gives us a vehicle to come back for that purpose.

MR. SCHIEFER: All right, thank you.

ZONING BOARD OF APPEALS
Regular Session

January 28, 1991

7:30 P.M. - ROLL CALL

Motion to adopt the minutes of the 01/14/91 meeting as written.

PRELIMINARY MEETING:

GO BACK

PLANNING
BOARD

1. WIND IN THE WILLOWS -SECOND PRELIMINARY - Request for area variances for day care center on Walsh Road in a PI zone. Present: Laura Ewall, Esq., Calais Guglielmi and William Squires.

GO
RETURN

2. SMALL TOWN LAND - Request for Interpretation and/or variances to permit building lot in an R-4 zone. Present: Donald S. Tracy, Esq. and Keith Williams.

GO
RETURN
TABLE

3. TRI-FAM ASSOCS. - Request for use variance for mining operation in connection with proposed development of condominium office not permitted in R-4 zone. Present: John Smitchger.

SET UP
FOR PUBLIC
HEARING

4. COHEN, MICHAEL - Request for 10,000 s.f. lot area, 95 ft. lot width and 11.67 ft. building height to construct small shopping center on Route 32 in a C zone. Present: Paul V. Cuomo, P. E.

FORMAL DECISIONS:

- (1) DUFFERS
(2) DENHOFF

APPROVED

PAT - 565-8550 (o)
562-7107 (w)

TRI-FAM ASSOCIATES

Daniel Bloom, Esq. came before the Board along with Donald Benvie from Tectonic Engineering representing this proposal.

MR. FENWICK: This is a request for use variance for mining operation in connection with proposed development of condominium office not permitted in R-4 zone.

MR. BLOOM: Mr. Smitchger is asking me to appear for him and I have Mr. Donald Benvie, an engineer who is more familiar certainly from a technical point-of-view with this. With the Chairman's permission, may we put up a site plan, please? It's a slightly different sort of an application. I'm quite frankly, after listening to what preceded me this evening, I approach this discertation with a certain amount of trepidation. I'm not sure if I'm here for an interpretation or variance or both. I'll defer also to Mark Edsall also who is more familiar with it because he was in on it at the early stages with the Planning Board.

My client presently as you can tell from the diagram owns some property about 500 feet east of 9W at its intersection with Caesars Lane. Caesars Lane intersects with 9W, you go up Caesars, he's 500 feet on the right. There's remnants of the old gravel bank, the old sand bank. And it's very steep, very wooded and it was my client's desire to utilize the property, put some structures in there that would best suit the site and the town. So, the approach with the Planning Board was we can either go in here, it's zoned residential, we don't think it's too good for that. However, if you agree with us that commercial condominium units which are contemplated at the present time would more appropriately be located here, we'd appreciate your giving us a preliminary site plan approval and a recommendation to the Town Board so we might apply for a zoning change and that was what we are in the process of doing when it was determined by the Planning Board that there is just so many trees and so much fill there to remove so that anybody can get a feeling for what we want to do here. They suggested that we apply for a mining permit to the Building Inspector and to the DEC and remove the many yards of fill that we have got to remove in order to bring it down to the proper site levels and then come back with an appropriate site plan for their preliminary approval and hopefully a recommendation to go to the Town Board for zoning change at that point for commercial use. So, that's where we are.

We went to an application was made to the Building Inspector, application was made to DEC, DEC I believe I have to defer to Don on this but I believe the DEC has given preliminary approval.

MR. BENVIE: They're in the process of reviewing the permit. There was two items which were addressed, three items which were addressed and basically from our original submittal verbally they have indicated that those are the only items that had to be satisfied to get their approvals and those items were addressed so we are expecting to hear back in the near future from the DEC. I just wanted to clarify a couple of things right now that the parcel is zoned both NC and R-4. A portion of it, this portion right here is R-4. This portion right here is NC and this is R-4. What we want to do what we are requesting is part of this whole submittal is to have the whole site zoned NC. This piece is isolated by itself and this piece would be also included in the rezoning of this so this whole piece would be NC as I say it's just this portion that's zoned NC and the reason why we are asking for this NC is in order to allow the use that we are proposing there, the office/condo project under the R-4 zone, we'd have to, the grading of the property is such that it would be very difficult to build residential units without doing a very massive much more grading operation than we are showing there now which would have a detrimental impact onto the abutting properties, as far as accommodating any proposed construction for residential units. And what we have tried to do with this layout is to minimize, is to maintain a large buffer zone to the adjacent residential units there.

MR. TORLEY: The lines are berms?

MR. BENVIE: Yes.

MR. TORLEY: You're asking for a mining permit to scoop this all out? What happens if the project or the town says no, we are not going to do it. Are you going to put the dirt back and replant trees or leave a hole in the ground?

MR. BENVIE: The idea is we are doing a tandem effort to go for the mining permit in conjunction with getting the zoning change for the property.

MR. KONKOL: If it was changed NC, do they still need a mining permit from us?

MR. LUCIA: Apparently they do because mining is not

allowed anywhere in the town.

MR. FENWICK: I don't know how we can even address this.

MR. LUCIA: They asked Mark Edsall to come along. They have done some gymnastics with the Planning Board and he can better explain it to you.

MR. KONKOL: Is Peter Olympia the owner of this property?

MR. BENVIE: Former owner.

MR. KONKOL: Weren't they going to donate the front portion to Unico (phonetic)?

MR. NUGENT: Yes, they were.

MR. KONKOL: What happened to that?

MR. NUGENT: Evidently, it fell through.

MR. KONKOL: I just wanted to see--

MR. BENVIE: The mining is secondary to develop the site but in order to develop the site, to anything that's feasible, you have to go into mining, you have to go into a large scale earth moving operation there to get it to a point where it's buildable, it's kind of a Catch 22 situation.

MR. FENWICK: What is the criteria that makes this separate from being a mining operation just to site preparation?

MR. EDSALL: Well, the State, although it's been asked many times, has not issued a written clarification. Section 421.1 of the State regulations indicates I believe it's 1,000 tons of materials in a 12 month period but then they go onto state that if the material is being removed concurrent or as part of a site development and they do make it clear that it's the entire site that you're developing that a permit will not be required. That's why although they initially made an application for the Supervisor to acknowledge and sign the application for the mining permit back in September of '89, because it didn't meet zoning, the Supervisor and myself felt that it should go to the Planning Board and/or this Board. Following that, Mr. Smitcher and his partners decided that if they are going to develop the site anyway, why get a permit, let's just do the site plan. Then, the Planning Board after reviewing it several times both for zoning changes and for various uses,

everything from townhouses, residential and of course condo, decided that they couldn't decide what was the correct use for that site until it was graded to a condition that it could be reviewed so they said no, go get the mining permit now so we have gone full circle and I guess the question I would ask this Board if it's a temporary mining operation, it has a fixed period obviously isn't a permanent operation, it's a predevelopmental type stage. Is it a use, is it a permanent use that this Board cares about or is it something that you feel comfortable letting the DEC issue a permit on, let the DEC issue a reclamation bond on, let the town even secure a reclamation bond which we have done in the past.

MR. KONKOL: Oh, I question if that's even going to fly because you have a lot of residences in that area. I have hunted in that land, you have too Jim, it's all full of rocks and ledges. You're going to have to blast in there.

MR. BENVIE: No, we have done test pits.

MR. KONKOL: Regardless, a mining permit gives you the right to blast.

MR. BENVIE: No, it doesn't. This is a Class 1 mining operation. This is a consolidated material.

MR. KONKOL: I don't think it's for this Board to pass on anything like that.

MR. TORLEY: Shouldn't you not get the zoning changed before you go any further than this?

MR. BLOOM: That's the problem again the chicken and the egg problem. We were down at the Planning Board seeking that and the recommendation of the Town Board and their feeling was is that well, the proper procedure here is for the Planning Board to give sort of their blessing to a preliminary site plan and recommend for zone change and have us take that to the Town Board. But, the problem was is that they didn't want to pass judgment on the initial site plan until we had physically removed enough of the aggregate so they can make an intelligent determination as to the levels.

MR. FENWICK: I don't see where we have anything to go by any criteria or anything since there's nothing in the book about a mining operation that we can grant anything. I mean I am not trying to get away from it and you may have a valid reason for it but I don't know,

this doesn't even fall into anything we can do, you know, maybe we can address the idea that you want to put this office in there or something like that but as far as the other part about it, I don't know if that's something this Board could do.

MR. NUGENT: I think that is what Mark asked us if we are concerned or we are not concerned basically.

MR. EDSALL: One of the options you have is to make a determination that because it's mining that it's being monitored by the DEC and by the town and it's not permanent, it's purely a predevelopment stage that is going to be controlled, monitored and obviously DEC doesn't loosely consider mining operations, they have three year permits, I believe they still have and they do monitor it. No, it's not a formal use, it's something that is happening but doesn't have to be considered a use and if you acknowledge it that way I'm sure the Supervisor will be glad to sign the application and let them proceed and they'll have to go back to the Planning Board.

MR. TANNER: I'm in agreement with that.

MR. FENWICK: I don't see how you got here with something like this. This is beyond our scope.

MR. EDSALL: One of the questions on the application is does this use meet current zoning and George Green our Supervisor felt very strongly that when it doesn't say you can do it, we should ask so that's what we are doing.

MR. TORLEY: Since there is nothing in the code that permits mining at all anywhere.

MR. NUGENT: Are we giving it the stamp of approval?

MR. LUCIA: I haven't spoken to George, I am not sure. Mark has had dealings with George. If we say we are not going to entertain a variance application, whether it's okay to send it saying it conforms with zoning, the issue came here basically because since mining is not permitted anywhere in the town, it's a nonpermitted use. Therefore, they'd need a use variance even to mine temporarily so that would be the basis on which we'd entertain it. Since it's a temporary use, you might want to consider, condition it if granted requiring that the mining be conducted under Planning Board review and approval. You might want to require a bond, either in

addition to or coordinated with the State bond so that if they did the mining and never came back, either way, commercial or residential, a proposal that they'd have the money in the bond to restore the property to something that we'd want acceptable to the town once they're through mining it.

MR. TANNER: Does the State require a bond?

MR. EDSALL: Yes, we had a similar case but this one diverged quite a bit from that only in the fact that we are talking about Liberty Meadows Subdivision on Beattie Road wanted to perform extensive grading before they had subdivision approval because it was part of a subdivision, it didn't need a mining permit. We requested and they agreed to a reclamation bond so that if the subdivision went bankrupt which it did as a matter of fact, eventually we could guarantee that the area would be restored to it's natural conditions so we won't have erosion.

MR. FENWICK: Who did that?

MR. EDSALL: The Planning Board because this involves a significant amount of material number one and number two because they are in fact going for a State permit for mining. We felt that it wasn't the same thing. Although there is some similarities.

MR. PINNEGAN: Who addresses the dirt and noise and traffic to this thing?

MR. BENVIE: The DEC.

MR. PINNEGAN: There is a rather large development there.

MR. BENVIE: We had to prepare a detailed report with regards to erosion, sedimentation control, traffic, drainage.

MR. KONKOL: Who is the lead agency?

MR. EDSALL: For the mining permit, DEC.

MR. TORLEY: Does the bond cover restoring to what it was or just--

MR. BENVIE: Seeding and restoring, not restoring to grade, no it covers like I said, going back in and seeding it and putting in erosion control measures, permanent erosion control measures.

MR. TORLEY: Basically what happen is we are left with a big hole.

MR. BENVIE: No, it's not a hole because basically it's actually going to be you're actually going to be left with slopes cutting back, going back from lower minimum floor if you will back up to the northern ends of the property so no, you're not going to have a hole, you're going to have in the area right now it's going to be the slopes there now, be pushed back and for that matter, the slopes that are there now are unstable because of the previous mining operation. Anything that we do right now is going--the slope is a lot more stable.

MR. TANNER: If you know the property, it can't be worse than it is now.

MR. KONKOL: My only concern I am not even sure whether we have anything to say on this or not. I am confused as to why it is here.

MR. BENVIE: We are going to have to have Zoning Board of Appeals approval, zoning chance to have it all NC.

MR. NUGENT: That still don't have anything to do with us only Town Board can do that.

MR. KONKOL: So the Planning Board feels this was not just pre-site development and therefore it had to come here for what?

MR. EDSALL: The Planning Board did not feel comfortable with all this mining being done under the guise of it being site development because they didn't feel comfortable that ultimately when it's mined this is the site plan they are going to approve.

MR. KONKOL: Since the zoning code says there's nothing, mining is not permitted activity in the town period. They are asking us to say go ahead and mine?

MR. M. BABCOCK: No, the zoning code doesn't say you can't do it but yet it doesn't say you can do it.

MR. EDSALL: That is right and it's subject to a State permit so that puts you under a different question.

MR. KONKOL: I would think that this is so far outside speaking personally our purview here that this ought to go to the Town Board.

MR. EDSALL: Town Board already had it.

MR. KONKOL: I just was talking to Don--

MR. FENWICK: We let them come back when they are properly prepared with the DEC reports and so forth. At that time, we'll review it.

MR. KONKOL: Okay.

MR. TORLEY: Okay, cause I'm not sure what is going on here. I'd feel uncomfortable towards taking any action.

MR. KONKOL: If we say go to the Town Board, Town Board has no objection, bingo, go down the road.

MR. BLOOM: I think we may have a problem because the DEC wants some sort of town blessing before they issue the permit.

MR. BENVIE: They want to get a feel from the town.

MR. KONKOL: We can't do that, you people are coming to us, we are not tailoring it to the client here so get your report and come back here.

MR. BENVIE: Here's the situation, since there's not a mining permitted in the town, they have to have some kind of feel that the town is going to let them do the mining so it's a Catch 22 situation.

MR. KONKOL: You're still going to have to come back because you're going to end up having petitioners that come when the first big bulldozer comes around, you're right in Bo Gil's back yard. We have a real good columnist to write about it so my recommendation is that the Board will review it after you come back with the right reports.

MR. BLOOM: So I am clear on this, would you, would it proper procedure be for us to submit to this Board copies of everything we have already submitted to the DEC.

MR. KONKOL: I'd say so, yes.

MR. LUCIA: As well as Don mentioned he had some mitigating factors why don't you give us the whole package.

MR. BLOOM: Fine.

MR. FENWICK: Looking for a motion to table this matter for further information.

MR. TORLEY: So moved.

MR. FINNEGAN: I will second it.

ROLL CALL:

Mr. Torley	Aye
Mr. Finnegan	Aye
Mr. Konkol	Aye
Mr. Tanner	Aye
Mr. Nugent	Aye
Mr. Fenwick	Aye

COHEN, MICHAEL

MR. FENWICK: This is a request for 10,000 square foot lot area, 95 feet lot width and 11.67 feet building height to construct small shopping center on Route 32 in a C zone.

Paul V. Cuomo, P.E. came before the Board representing this proposal.

MR. CUOMO: This is a Michael Cohen site plan. We were here before, we had some--

MRS. BARNHART: This is your fourth preliminary.

MR. CUOMO: We cleaned it up. This is next to the waterbed place, it's across the street from the Phil & Neil's.

MR. FENWICK: Has this drawing been to the Planning Board?

MR. CUOMO: Yes, many times. The thing that we have on here is a site whereby the stores are configured the last time I think a long time ago when we were trying to put three stores in there and we got to the edge of the site plan because we created a side yard that was, that would have required a variance.

MR. TORLEY: Either of those signed off on by the Planning Board?

MR. FENWICK: Yes, I do have a map that has that one that is signed off by the Planning Board on January 15th, 1991.


MR. CUOMO: Now, the idea was that we made these stores configure the three stores we started out with four, we got three here. The idea is that we did not create any side yard variance. We have a 37 on one side and 34 on the other. The only variance we are looking for here is the size of the lot, 10,000 square feet which you can't do much about, the width of the lot which is 105 and the building height, three variances. This configuration of the, which we'll get paper on is approved by the New York State DOT. So, we have come before you tonight for these three area variances. The stores, I should say are set-up such that in order to get those side yards, we have two front stores here and a store in the rear. So, we'll have three in our little shopping center.

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NYNOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATIONPLANNING BOARD FILE NUMBER: 89-47DATE: 26 DECEMBER 1990APPLICANT: TRIFAM ASSOC.ZBA

#1 - 1 - 28-91

270 MAIN STREETCORNWALL N.Y. 12518PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 1 DECEMBER 1989FOR (~~SUBDIVISION~~ - SITE PLAN) _____LOCATED AT NORTH SIDE CAESARS LANE APPROX 500 FTWEST OF RT 9W.

ZONE

R-4DESCRIPTION OF EXISTING SITE: SEC: 37
47 BLOCK: 1 LOT: 31USE VARIANCE FOR MINING OPERATION REQUESTED.IS DISAPPROVED ON THE FOLLOWING GROUNDS: PROPOSED DEVELOPMENTOF CONDOMINIUM OFFICE NOT PERMITTED IN R-4 ZONE.MINING OPERATION CURRENTLY REQUESTED ALSO NOTPERMITTED IN R-4 ZONE.
MARK J. EDGALL IS FOR
PLANNING BOARD CHAIRMAN

<u>REQUIREMENTS</u>	<u>USE VARIANCE REQUESTED</u>	<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE _____	USE _____		
MIN. LOT AREA	_____	_____	_____
MIN. LOT WIDTH	_____	_____	_____
REQ'D FRONT YD	_____	_____	_____
REQ'D SIDE YD.	_____	_____	_____
REQ'D TOTAL SIDE YD.	_____	_____	_____
REQ'D REAR YD.	_____	_____	_____
REQ'D FRONTAGE	_____	_____	_____
MAX. BLDG. HT.	_____	_____	_____
FLOOR AREA RATIO	_____	_____	_____
MIN. LIVABLE AREA	_____	_____	_____
DEV. COVERAGE	_____ %	_____ %	_____ %
O/S PARKING SPACES	_____	_____	_____

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
(914-565-8550) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

TOWN OF NEW WINDSOR

PLANNING BOARD

NOVEMBER 14, 1990

MEMBERS PRESENT: CARL SCHIEFER, CHAIRMAN
JOHN PAGANO
RON LANDER
CARMEN DUBALDI
HENRY VAN LEEUWEN

ABSENT: DAN MC CARVILLE
VINCE SOUKUP

ALSO PRESENT: MARK EDSALL, P.E., PLANNING BOARD ENGINEER
MICHAEL BABCOCK, BUILDING INSPECTOR
ANDREW KRIEGER, ESQ., PLANNING BOARD ATTORNEY

MR. SCHIEFER: I'd like to call the regular meeting of the Town of New Windsor Planning Board to order. First item is the approval of the minutes of the meeting of October 19th.

MR. PAGANO: I will make a motion to accept those minutes.

MR. LANDER: I will second it.

ROLL CALL:

Mr. VanLeeuwen	Aye
Mr. Pagano	Aye
Mr. Lander	Aye
Mr. Dubaldi	Aye
Mr. Schiefer	Aye

DISCUSSION: TRIFAM

MR. EDSALL: I got a letter from esteemed Daniel J. Bloom, Attorney at Law regarding the possible Trifam, I believe it is the Trifam rezoning down on--

MR. VAN LEEUWEN: I am not ready to vote, we went down there John and myself and Carl went down and we took a look and he wanted, he asked for certain things we could do that he wanted to move some stones to the edge of the road, we said we had no problem, clean some garbage, people are using it as a dump site. We have no problem with that. But, I think more of the members should go and take a look because that is a future dustbowl. What Carl, John and I decided basically our decision, not the Board's decision because I don't make decisions for the Board, neither does John or Carl, is that we let them go ahead and get a mining permit, clear the land the way they want and come in for a site plan.

MR. LANDER: They don't want to get a mining permit, they can but they'd rather do it through the site plan as regrading then go.

MR. VAN LEEUWEN: Can I say something? There's no way you can look at that land the way it is today and make any kind of decisions, am I right John?

MR. PAGANO: Yes.

MR. VAN LEEUWEN: They have got to clear all the land, they have got two level of buildings and I suggest they clean it up and get a mining permit so which he said he can get with no problem, clear the land and then come into us for it because I tell you something realistically, there's no way I can give my blessing to say we are going to okay the site plan. If I owned the property, and I was in their situation and I know it's a bitch to get a mining permit, that's what he wants to get away from, all right, but there's no way that I could agree to that plan on that piece of property.

MR. EDSALL: Part of the problem why he was hesitating in going for the mining permit is that there is no allowance in the Town of New Windsor for zoning to allow for mining operation and he was very concerned about the ability to get a variance to run--

MR. BABCOCK: Back when Frank and John were discussing, matter of fact I brought it originally they applied to the Town of New Windsor with a mining permit application and upon discussing it with me, George Green refused to sign the application because the Town of New Windsor zoning does not allow for it.

That is when they came in here initially that is where they started which I have no problem telling them that is where they should go start again. If that is the case, we should do--

MR. VAN LEEUWEN: Ron, you are involved in building, you do blacktopping, what is your feeling?

MR. LANDER: They should get a mining permit.

MR. EDSALL: Why doesn't the Planning Board just as a motion refer this matter to the Zoning Board of Appeals for a variance to operate it and if you believe if it's an appropriate thing to do for that site, positively recommend it.

MR. VAN LEEUWEN: We said we can go along with the zoning change, if they want to come in for that, the zone change they can proceed. I have no problem but for that land should be cleared first, big, high trees in there, you don't know what they are going to do because what they got planned in there is not going to fit.

MR. EDSALL: So you are going to make a referral?

MR. VAN LEEUWEN: Yes, I so move.

MR. EDSALL: It's going to the Zoning Board of Appeals for consideration for a mining permit when they apply to the town for--

MR. KRIEGER: They need a variance for a mining permit.

MR. LANDER: What we are doing is--

MR. VAN LEEUWEN: Referring them to the Zoning Board.

MR. LANDER: I will second it.

ROLL CALL:

Mr. VanLeeuwen	Aye
Mr. Lander	Aye
Mr. Dubaldi	Aye
Mr. Pagano	Aye

Being that there was no further business to come before the Board a motion was made to adjourn the meeting by Mr. VanLeeuwen seconded by Mr. Pagano and approved by the Board.

Respectfully Submitted;

Frances Sullivan
 FRANCES SULLIVAN
 Stenographer

CC: JLB

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK



1763

Pauline G. Townsend
TOWN CLERK
914-565-8803

CLERK'S CERTIFICATE

I, PAULINE G. TOWNSEND, Town Clerk of the Town of New Windsor in the County of Orange, State of New York HEREBY CERTIFY that the below extract of the minutes has been compared by me with the Minutes of the Town Board of the Town of New Windsor in the County of Orange, State of New York held on the 18th day of April 1990 and the same is a true and correct transcript therefrom and of the whole thereof so far as the same relates to the subject matter referred to.

IN WITNESS WHEREFORE, I have hereunto set my hand and affixed the corporate seal of said Town, this 19th day April 1990.

TOWN SEAL


PAULINE G. TOWNSEND, TOWN CLERK
Town of New Windsor

Motion by Councilman Spignardo, seconded by Councilwoman Siano that the Town Board of the Town of New Windsor refer a Petition for Zone Change (from R-4 and NC TO NC) of TRI-FAM ASSOCIATES to the Planning Board for review and comment and the Planning Board is directed to have comments to the Town Board within 45 days.

ROLL CALL: All Ayes

MOTION CARRIED: 4-0

*Recommend we deny request to rezone.
See minutes of meeting.
C. E. Schifer
4-25-90*

DISCUSSION:TRI-FAM

MR. SCHIEFER: This issue of the recommendation on rezoning the back portion of Tri-fam, do you want to think that over or take action now or the Board needs a recommendation.

MR. SOUKUP: I make a motion we deny it from R-4 to NC. We have already made a recommendation that the front part be consolidated. I make a motion we maintain the existing zoning in a residential character for the back part of the property.

MR. PAGANO: I will second that.

MR. SCHIEFER: Recommendation going to the town recommend that we do not change the back portion of that remain R-4.

ROLL CALL:

Mr. Pagano	Aye
Mr. Lander	Aye
Mr. Dubaldi	Aye
Mr. Soukup	Aye
Mr. Schiefer	Aye

PETITION TO THE TOWN BOARD OF THE TOWN OF NEW WINDSOR

The petition of TRIFAM Associates to the Town Board of the Town of New Windsor pursuant to the provisions of Article X of the Zoning Law of the Town of New Windsor, as set forth in Chapter 48 of the Code of the Town of New Windsor prays for the following relief:

1. Petitioner requests that lands owned by the petitioner in the Town of New Windsor, County of Orange, State of New York, consisting of 15.6 acres as shown on the tax maps of the Town of New Windsor as Section 47, Block 1, Lot 87 and Section 37, Block 1, Lot 31 be rezoned from a combination of R4 and NC to all NC.

2. Attached to this petition is a copy of the proposed plans including topo and metes and bounds descriptions, already submitted. The parcels which are sought to be rezoned shows on the map as parcels 87 and 31, and are presently a combination of R-4 and NC. Proposed change will be to all NC.

3. A check covering the cost of this petition was submitted to the Town of New Windsor on 3/24/88 for \$326.00 and is being held by your Town Clerk, Mrs Townsend. The petitioner respectfully requests that this matter be reviewed by you for your approval and be submitted to the Planning Board. Please keep me apprised of this matter.

WHEREFORE, your petitioner requests that the relief prayed for in this petition be granted and the petitioner's property be rezoned.

Respectfully submitted,

TRIFAM ASSOCIATED

Dated:

4-3-90

By:

Michael J. Kelly

APR

3 1990

TELEPHONE (914) 562-8640
PORT JERVIS (914) 856-5600

89-47

RICHARD D. McGOEY, P.E.
WILLIAM J. HAUSER, P.E.
MARK J. EDSALL, P.E.

**Licensed in New York,
New Jersey and Pennsylvania**

PLANNING BOARD WORK SESSION RECORD OF APPEARANCE

TOWN OF NEW WINDSOR P/B # -

WORK SESSION DATE: 5 DEC 1989

REAPPEARANCE AT W/S REQUESTED: NO

PROJECT NAME: Tritan 4c

PROJECT STATUS: NEW _____ OLD _____

REPRESENTATIVE PRESENT: Rat Kennedy

TOWN REPS PRESENT: BLDG INSP. X
FIRE INSP. X
ENGINEER X
PLANNER _____
P/B CHMN. _____
OTHER (Specify) _____

ITEMS TO BE ADDRESSED ON RESUBMITTAL:

[illegible]

89-47



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

45 QUASSAICK AVE. (ROUTE 9W)
NEW WINDSOR, NEW YORK 12550

TELEPHONE (914) 562-8640
PORT JERVIS (914) 856-5600

RICHARD D. McGOEY, P.E.
WILLIAM J. HAUSER, P.E.
MARK J. EDSALL, P.E.

Licensed in New York,
New Jersey and Pennsylvania

**PLANNING BOARD WORK SESSION
RECORD OF APPEARANCE**

TOWN OF NEW WINDSOR P/B # -

WORK SESSION DATE: 5 DEC 1989 APPLICANT RESUB.
REQUIRED: Yes (kill app)

REAPPEARANCE AT W/S REQUESTED: No

PROJECT NAME: Tectonic/Triton S/P

PROJECT STATUS: NEW OLD

REPRESENTATIVE PRESENT: Don Service

TOWN REPS PRESENT: BLDG INSP. X
FIRE INSP. X
ENGINEER X
PLANNER
P/B CHMN.
OTHER (Specify)

ITEMS TO BE ADDRESSED ON RESUBMITTAL:

- W hydrants late
- sewer elev. (co-ord)
- Bob R. - eval - bldg height reach
✓ GFD 95' ladder
flip flop parking

89-47



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

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WILLIAM J. HAUSER, P.E.
MARK J. EDSALL, P.E.

Licensed in New York,
New Jersey and Pennsylvania

PLANNING BOARD WORK SESSION
RECORD OF APPEARANCE

not assigned

TOWN OF New Windsor

P/B # -

WORK SESSION DATE: 5-2-89

APPLICANT RESUB.
REQUIRED:

REAPPEARANCE AT W/S REQUESTED:

PROJECT NAME: Trifam

Caosars \$9k

COMPLETE APPLICATION ON FILE NEW OLD

REPRESENTATIVE PRESENT: Pat K.

TOWN REPS PRESENT: BLDG INSP. ✓
FIRE INSP.
P/B ENGR. ✓
OTHER (Specify)

ITEMS TO BE ADDRESSED ON RESUBMITTAL:

add tax maps.

Be Bre & after data - Bulk

verify zone lines - xerox for Pat

ready to submit needs full app.

89-47



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

45 QUASSAICK AVE. (ROUTE 9W)
NEW WINDSOR, NEW YORK 12550

TELEPHONE (914) 562-8640
PORT JERVIS (914) 856-5600

RICHARD D. McGOEY, P.E.
WILLIAM J. HAUSER, P.E.
MARK J. EDSALL, P.E.

Licensed in New York,
New Jersey and Pennsylvania

**PLANNING BOARD WORK SESSION
RECORD OF APPEARANCE**

TOWN OF NW P/B # -
WORK SESSION DATE: 17 Oct 89 APPLICANT RESUB.
REAPPEARANCE AT W/S REQUESTED: No REQUIRED: No.
PROJECT NAME: Turban - Caesars.
PROJECT STATUS: NEW X OLD
REPRESENTATIVE PRESENT: Dr Benie.
TOWN REPS PRESENT: BLDG INSP.
FIRE INSP. Robert
ENGINEER X
PLANNER
P/B CHMN.
OTHER (Specify)

ITEMS TO BE ADDRESSED ON RESUBMITTAL:

- Drang, ESC, landscaping;
sight dist.; gen'l layout (one elev);
- request Presub conf - next avail
agenda.



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK

January 10, 1990

Town of New Windsor Town Board
555 Union Avenue
New Windsor, NY 12553

ATTENTION: GEORGE GREEN, SUPERVISOR

SUBJECT: ZONE CHANGE FOR TRI-FAM - CEASAR'S LANE

Dear Supervisor Green:

In response to your request for the Planning Board's recommendation on the zone change for above project, the Planning Board recommends the portion of lot 1 in R-4 zone to be changed to NC.

As far as the change for lot #2, the Board has not reached a decision yet in this matter. Upon reaching this decision, we will notify the Town Board promptly.

We hope this is satisfactory and if you should have any questions, please contact the undersigned.

Very truly yours,

Carl E. Schiefer, Chairman
Carl E. Schiefer, Chairman
Town of New Windsor Planning Board

CES:mlm

cc: Mark Edsall, P.E. - Planning Board Engineer
P.D. File #89-47

MEMORANDUM

TO: CARL SCHIEFER, CHAIRMAN
NEW WINDSOR PLANNING BOARD

FROM: FRED FAYO, HIGHWAY SUPERINTENDENT
TOWN OF NEW WINDSOR

DATE: JANUARY 23, 1990

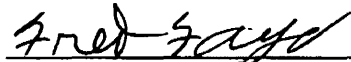
SUBJECT: TRI-FAM PROPERTIES - CEASAR'S LANE

Dear Mr. Schiefer:

Please be aware that as of this date, I have not purchased dirt taken from the site owned by Tri-Fam located on Ceasar's Lane in the Town of New Windsor.

If you should have any questions, please feel free to contact me.

Very truly yours,



Fred Fay, Highway Superintendent
Town of New Windsor

FF:mm

cc: Mark Edsall, P.B. Engineer
File # 89-47

BUILDING INSPECTOR, PLANNING BOARD ENGINEER, FIRE INSPECTOR,
D.O.T., O.C.H., O.C.P., D.P.W., WATER, ~~SEWER~~, HIGHWAY, REVIEW
FORM:

The maps and plans for the Site Approval ✓
Subdivision _____ as submitted by
TECTONIC for the building or subdivision of
TRI-FAM ASSOCIATES has been
reviewed by me and is approved ✓
disapproved _____.

If disapproved, please list reason _____
Conditional upon the agreement to submit AS-BUILT
drawings of all sewer connections upon completion

HIGHWAY SUPERINTENDENT

WATER SUPERINTENDENT

John P. Smith
SANITARY SUPERINTENDENT

2-5-90

DATE

✓
CC: M.E.

CC: T/B
I.T.S
R. McGuey

January 24, 1990

Town of New Windsor Town Board
555 Union Avenue
New Windsor, NY 12550

Gentlemen:

We have entered into discussions with your Town Planning Board regarding Zoning Change R-4 to R-5 on our property on Caesars Lane, per your instructions.

The Planning Board is presently in discussions over this zoning change and also site plan reviews which are most important since there is approximately 500,000 to 600,000 cubic yards of excess material that has to be removed before we can enter into the construction phase of our proposed apartment complex.

We hope for a speedy disposition of this matter as Spring is rapidly approaching and we are faced with approximately 12 to 18 months of material removal and another 12 to 18 months during the construction phase before these apartments will be ready for occupancy. We would like to solidify this matter while interest rates and construction costs are feasible and affordable.

Very truly yours,

TRI-FAM ASSOCIATES



Michael J. Kelly, Partner

MJK/smc

JAN 26 1990 - (a)

TRI-FAM SITE PLAN:

Mr. Don Benvie of Tectonic Engineering came before the Board presenting the proposal.

BY MR. BENVIE: As Pat showed you on the previous plan where we wanted to make the property line change there is also a zoning change involved right now. The proposed change would make that whole piece on the left R5 and then commercial NC on the piece on the right. Now, I understand that the Town Board has recommended to approve the zoning changes and has referred it to the Planning Board for their action and as part of the, as far as I understand, the letter was sent and as part and as part of our submittal for the sketch plan we are showing what the, our client would like to do with the property once the zone change, if the zone change is approved, what they'd like to do with the property there. We'd like to develop a preliminary grading plan just because of the amount, just because they access into the site in order to develop it to get the kind of apartment complex that they are proposing for the site.

BY MR. SCHIEFER: How much fill has to come out of there, how much excavation?

BY MR. BENVIE: Right now last time we come in, I guess it was in October when we just come in for a presubmission conference, we were looking at I think about 600,000 or 700,000 yards and there was some concern about the slope up in back there and about terracing the site in order to break it up which we went back and reworked the grading and ended up with a terracing where we have the back part of the site is ten feet higher than the front part of the site to try to minimize some of the excavation work up there and the back slope we broke it up and decreased the height on that slope also again to minimize the impact of the earth work and I think we are looking at what is shown about half a million yards of material that would have to be removed to get access to the site grades. That is a rough number. We just took a couple, two cross sections that were shown on the plan and used that to kind of develop some preliminary numbers for the excavation quantities.

BY MR. SCHIEFER: We were back on this site and --

BY MR. VAN LEEUWEN: I have never seen this. I know just about where it is.

BY MR. SCHIEFER: Beautiful sand in there, a lot of it.

BY MR. VAN LEEUWEN: What basically are you looking for, looking to remove the dirt so you don't have to go for a mining permit or are you going to get a mining permit?

BY MR. BENVIE: With the site plan process, it is our understanding from the D.E.C. removing the materials, part of a site plan development, a mining permit is not required. If we are going in there to take the dirt out, it would be required because that is only, that is the only use that the property would be exposed to.

BY MR. VAN LEEUWEN: I want to take a look at this site.

BY MR. SCHIEFER: The rest of us have.

BY MR. MC CARVILLE: I didn't.

BY MR. SCHIEFER: Ron and I are the only two that went down.

BY MR. MC CARVILLE: I can't believe you don't need a mining permit.

BY MR. SCHIEFER: I think that has been established. If we give them the site plan approval to excavate it, they do not need it.

BY MR. VAN LEEUWEN: This is not ready for approval anyway. I'd like to go and see it.

BY MR. SCHIEFER: I have discussed this with the principal and at that time, he said he'd be willing to give us a bond so that the project will be finished, no one has discussed the size or anything, but is that right?

BY MR. SMITCHGER: Yes.

BY MR. SCHIEFER: I brought up the same point the day we were on the site, a bond that the project will be finished.

BY MR. VAN LEEUWEN: Who are the people who own this?

BY MR. BENVIE: Tri-Fam.

BY MR. VAN LEEUWEN: Who is that?

BY MR. KENNEDY: John Smitchger and his two son-in-laws.

BY MR. LANDER: After they take out the half a million yards they decide not to put this up, then they have, what would be revegetation bonds.

BY MR. SOUKUP: He has to put that up anyway.

BY MR. SMITCHGER: Property is absolutely useless. You couldn't build anything on it right now, so therefore it is in our best behalf to get rid of the dirt, sell it, make a profit and be able to build the apartments, but I certainly will provide a bond. If we are stupid enough to walk away, we will leave it for you.

BY MR. SOUKUP: The bond is not for the buildings.

BY MR. EDSALL: We have a precedent, you did that for Liberty Meadows which I am sure Vince recalls. I believe we called it an environmental maintenance bond that was the terminology since we had nothing better to call it. That guaranteed if the work was stopped there was sufficient monies to restore the land back to a stable situation.

BY MR. SCHIEFER: You two gentlemen haven't visited the site, you will be surprised how much is already out of there. There is a lot. There is a big flat area where --

BY MR. KENNEDY: That mining operation has been going on for many years. It shows up as mining operation on a 1955 USGS map. It has been mined for many, many years.

BY MR. VAN LEEUWEN: Has DEC been there yet?

BY MR. BENVIE: Not that I know of.

BY MR. VAN LEEUWEN: You are lucky. Two trucks moved in my place and they were there.

BY MR. SOUKUP: I'd consider doing a lead agency, but because of the size and scope, I think it should be coordinated lead agency and we should notify involved agencies such as the D.E.C. That way, in 30 days we can be able to take action if we so wish and I'd like to make a recommendation that we do become lead agency, make it a coordinated lead agency notice advising all involved agencies of our intent.

BY MR. VAN LEEUWEN: Couldn't make the D.E.C. lead agency?

BY MR. SOUKUP: They are on the list.

BY MR. VAN LEEUWEN: I make a motion we make the D.E.C. lead agency.

BY MR. SCHIEFER: We can't do that.

BY MR. SOUKUP: The D.E.C. will be advised of our actions so they are aware of what we are doing?

BY MR. KENNEDY: The D.E.C. is the one that told us they didn't need it, a mining permit if this was to do with the site plan, mining permit application was filled out and sent to the D.E.C.

BY MR. EDSALL: Sent to the town and the town supervisor would not sign it since the use is not permitted in the town. Therefore, you would need a variance.

BY MR. KENNEDY: It was sent to the D.E.C. They sent it back saying we didn't get your signature.

BY MR. EDSALL: George wouldn't sign it because there was no allowable use in the town for mining. Mr. Soukup, would it be acceptable if we used the standard letter that I have indicating that it is in our opinion an unlisted action and just look for coordinated lead agency selection.

BY MR. SOUKUP: I don't want to predispose the action. I want to -- there is in the back of the SEQRA handbook, a lead agency notice for coordinated lead agency. I prefer to use that without predisposing the action.

BY MR. EDSALL: We have a standard letter used for a couple of years that says at this time it is our opinion that it appears to be an --

BY MR. SOUKUP: Okay, I prefer that it be coordinated so it goes to the various involved agencies. I will make that resolution.

BY MR. EDSALL: I will do that.

BY MR. SCHIEFER: Repeat that?

BY MR. SOUKUP: Resolution is that the Planning Board become lead agency and issue a coordinated lead agency notice which

would be circulated to the other agencies, such as the D.E.C., D.O.T., etc., advising them of our action giving them 30 days to object. If they don't object, then we can become lead agency with no problem.

BY MR. PAGANO: Does the applicant waive his time limit?

BY MR. SOUKUP: There is no time limit for that, unless we complete SEQRA there is no timeclock that starts on anything.

BY MR. PAGANO: I will second it.

ROLL CALL:

McCarville: Aye.
VanLeeuwen: Aye.
Pagano: Aye.
Soukup: Aye.
Lander: Aye.
Schiefer: Aye.

BY MR. MC CARVILLE: When you calculated out your buildable area, did you subtract the sewer easement?

BY MR. BENVIE: I believe they did.

BY MR. MC CARVILLE: Did you subtract the water in the creek?

BY MR. BENVIE: To be quite honest, that I can't answer.

BY MR. MC CARVILLE: You are not sure on the sewer easement?

BY MR. BENVIE: I believe they did.

BY MR. VAN LEEUWEN: How many units?

BY MR. BENVIE: 68 units, 34 is 34 in the footprint, it is two stories, so 68 units. I think it is well below what the allowable density is. Part of the rezoning that they are asking for I think it's to be rezoned to R5.

BY MR. VAN LEEUWEN: It's not zoned R5 yet?

BY MR. BENVIE: No. Supposedly the letter, supposedly the Board had sent on a letter to the Planning Board and that is part of what we are discussing here tonight.

BY MR. VAN LEEUWEN: We shouldn't even be looking at this until, because it is not zoned for it.

BY MR. SCHIEFER: There is so many disapprovals we can't do anything yet anyway. We are not going to take any action, we are trying to get this thing started.

BY MR. BENVIE: One of the first things as far as the getting started would be the rezoning issues with regards to various portions of the property. I just wanted to kind of highlight.

BY MR. VAN LEEUWEN: What is it zoned now?

BY MR. BENVIE: R4, but you can see the R4 line which, where we have asked to have the R4 line moved as Pat will show.

BY MR. KENNEDY: R4 comes down Caesar's Lane, cuts this way over here. This strip in here, that is kind of landlocked, is R4 and the remaining of it in here is NC.

BY MR. SCHIEFER: You are hoping to be R5?

BY MR. KENNEDY: Leave what's been approved here at lot 1 to be NC and everything fronting on Caesar should be R5.

BY MR. VAN LEEUWEN: You shouldn't be showing us a site plan. We are reviewing a site plan in an R4 zone doesn't make sense.

BY MR. KENNEDY: This was just a lot line change.

BY MR. VAN LEEUWEN: We shouldn't be looking at the site plan if it isn't zoned properly.

BY MR. KENNEDY: It has gone before the Town Board in order for you guys to give input, so that this is going to work, you have to show the proposal. We tried to say at the beginning, but Carl says we haven't gotten into that.

BY MR. SCHIEFER: When the Town Board wants an answer by the 15th of January, a recommendation from us. Do we want to change from R4 to R5?

BY MR. VAN LEEUWEN: 15th of January. I think what we should be talking about tonight is the zoning change on this particular property.

BY MR. BENVIE: I agree.

BY MR. SCHIEFER: That is a separate issue.

BY MR. BENVIE: Actually two parts to the zoning change. We have to change the zone and actually move the R4 over from where it is right now, but in addition to that, change it to R44 to R5 so there is two parts, there is really two parts.

BY MR. VAN LEEUWEN: I don't want to act on the zoning change until I take a look at the land.

BY MR. MC CARVILLE: I think we have to take a look at it just comparing those density --

BY COUNCILMAN SPIGNARDO: On the zoning change that we requested you better check the date because after 30 days if we don't get any response from you, unless you discuss to hold it up, we might have to act on it anyway. We gave a 30 day limit to come back to us with a response.

BY MR. VAN LEEUWEN: The only other way is the applicant has to waive the time period. Are you willing to waive the time period?

BY MR. SMITCHGER: Sure.

BY MR. VAN LEEUWEN: Now we are safe. I want to go to look at it.

BY MR. SCHIEFER: You want to do that before we consider the site plan?

BY MR. VAN LEEUWEN: I will do both.

BY COUNCILMAN SPIGNARDO: Be sure you notify the Town Board that you are asking for the delay.

BY MR. MC CARVILLE: I think that should be in the form of a note, rather than in the minutes.

BY MR. SOUKUP: What do we have from the Town Board?

BY MR. SCHIEFER: A letter requesting our opinion on changing that from R4 to R5. I was not aware of the moving of it, but it is basically so they can build this thing.

BY MR. KENNEDY: This works into that.

BY MR. SOUKUP: What did the applicant submit to the Town Board for the zone change?

BY MR. KENNEDY: I don't know.

BY MR. SMITCHGER: They had a form letter that I had to copy and pay \$300 and some odd dollars for and I talked to them about a year ago and they are very much in favor of it because you need apartments in New Windsor. If you don't want to change the zoning, we will be back with another site plan removing the same amount of dirt and building houses. The main thrust is to start digging the dirt so we can do something whether it be R4 or R5, it is immaterial and the reason you are looking at the site plan is I think you really need to see what is possibly being proposed here to make the zone change.

BY MR. BENVIE: For starters you have the R4 landlocked piece, the commercial --

BY MR. VAN LEEUWEN: We just took care of that tonight. We moved the lot line.

BY MR. KENNEDY: That doesn't effect the zone.

BY MR. BENVIE: That is landlocked.

BY MR. SOUKUP: I think we could probably look at the relocation of the residential and the commercial line and make a comment on that tonight whether you want to comment on the change from R4 to R5 is something else, but my gut feeling is that the change of the commercial line or redefining the NC and the residential zone is a logical move.

BY MR. SCHIEFER: Make this entire new lot NC, that makes sense.

BY MR. SOUKUP: Right. If I were to write something to the Board, I'd say the line between NC and the residential use makes sense, whether you want to consider a change in the R zone or not. I don't know. R4 doesn't allow garden apartments, is that true Mike?

BY MR. BABCOCK: R4 is single family.

BY MR. SOUKUP: Is the density different between R4 and R5?

BY MR. MC CARVILLE: Yes.

BY MR. VAN LEEUWEN: 20,000 square foot lot.

BY COUNCILMAN SPIGNARDO: After you review the recommendation, if you approve of it, let us know.

BY MR. SCHIEFER: This is something separate, we are saying we recommend that a change to all NC we have created a lot here.

BY COUNCILMAN SPIGNARDO: Whichever recommendation you come up with, you voice that opinion.

BY MR. SCHIEFER: How?

BY COUNCILMAN SPIGNARDO: A letter from you.

BY MR. MC CARVILLE: We are reserving decision on the back portion.

BY MR. SOUKUP: The Town Board has the right to make their mind up too. We are just advising them and that is why I am saying looking at the property, when you come to a site plan would be more valuable than making a zoning change.

BY MR. LANDER: You have to see the proposed site plan to justify the request for the zoning change.

BY MR. KENNEDY: The site has to be graded.

BY MR. MC CARVILLE: When did he last operate his mining operation?

BY MR. BENVIE: That I don't know.

BY MR. KENNEDY: I don't know if he ever stopped.

BY MR. BENVIE: It is for quite a period of time.

BY MR. SOUKUP: Any of the prior owners ever have mining permits?

BY MR. KENNEDY: Not that I am aware of. I don't know how many years you have had the property but I know the Town of New Windsor buys material from there.

BY MR. SCHIEFER: Mike, could you have Myra write that letter recommending this to the Town Board, that this new lot be all in the NC zone and I will sign it and we will get it to them and also say that we are going to hold up the recommendations on this until we have a chance to visit it. If she will draft that letter, I will come in and sign it and we will get it over to you people.

BY MR. SMITCHGER: If those apartments are approved, they will be in the Cornwall School District.

BY MR. VAN LEEUWEN: I make a motion we adjourn.

BY MR. SCHIEFER: Do you want the rest of us to go down with you? We have already been down there. I know what this thing is and the thing that impressed me most are the mining operations that has been going on for a long period of time.

BY MR. BABCOCK: On projects like this they have zone line changes and they change lot lines and affect the zoning map. I think possibly maybe it should be up to the Planning Board it recommend also if it doesn't go to the Town Board for zone change that it reflect the applicant reflect, because it is changing our zoning map.

BY MR. SCHIEFER: We are not --

BY MR. BABCOCK: You did a lot line change and you affected where the lot line is and where the zone line is.

BY MR. SCHIEFER: That is what this letter to the Town Board --

BY MR. BABCOCK: You made a lot line change.

BY MR. SCHIEFER: Now we have one lot with two zones and a recommendation to the Town Board that portion in the R4 now recommended go to NC, that is the essence of it.

BY MR. BABCOCK: Now you have got a zone line in the middle.

BY MR. SCHIEFER: We are going to make this recommendation immediately. This part we are going to hold over on.

BY MR. BABCOCK: Where the line is now, it is changing the zone line.

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BY MR. SCHIEFER: No, we are asking the Town Board to change it, we are recommending they change it.

BY MR. VAN LEEUWEN: Nobody has made a motion to that effect and nobody -- it's got to be official.

BY MR. SMITCHGER: If a smaller parcel lies within a larger parcel, the whole parcel is zoned the same, isn't there a law like that?

BY MR. VAN LEEUWEN: No.



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MEMORANDUM

TO: CARL SCHIEFER, PLANNING BOARD CHAIRMAN
FROM: MARK J. EDSALL, P.E., PLANNING BOARD ENGINEER
SUBJECT: TRIFAM SITE PLAN (89-47)
CEASARS LANE AND ROUTE 9W
DATE: 21 FEBRUARY 1990

Please be advised that on 16 February 1990, I received a telephone call from Michael Kelly, the Applicant's Representative, advising me that they would like to perform deep test soils evaluations at the subject site. I questioned Mr. Kelly, with regard to continued mining activity on site, and informed him that excavation solely for the purpose of soils test information was acceptable. This did not include clearing of the land, only soils review. I recommended that they make sure that their Engineer, Mr. Donald Benvie, P.E., or his authorized representative, is on site during all soils test activity.

This memorandum is being forwarded to advise you of this proposed activity and to request that any activity observed, be verified as being limited to the requested purpose, as noted above.

Respectfully submitted,


Mark J. Edsall, P.E.
Planning Board Engineer

MJEsjg

cc: Michael Babcock, Building Inspector

trifam1

January 24, 1990

Town of New Windsor Planning Board
555 Union Avenue
New Windsor, NY 12550

Gentlemen:

On January 23, 1990, we were instructed by the Town Engineer, Mr. Mark Edsall, that we should not be removing any material from our site at Route 9W & Caesars Lane.

At that time, we were in the process of removing approximately 300 yards of fill for a foundation in Cornwall. We thought we had every right to do so based on the D.E.C. Mining Manual, Sec. 421.1, which states that no permits are needed for removal of less than 1,000 tons of material in a year. (per attached booklet). Mr. Edsall explained to us that this is contrary to the Town of New Windsor's regulations and we have stopped removal until permission is granted by the Town of New Windsor.

Tri-Fam is made up of myself, Frank Ronsini, John Smitchger, and our wives. We are obviously having a communication problem within our group. Hereafter, I will be the liaison between our Group and the Town of New Windsor. I can be reached at 534-2434 or 534-3603. My address is 24 Rose Hill Park, Cornwall, New York 12518.

We are sorry for the confusion and will take full responsibility in this matter.

Very truly yours,

TRI-FAM ASSOCIATES



Michael J. Kelly, Partner

MJK/smc
Enclosure

CC: M.E.
FILE # 89-46

SUBCHAPTER D**Mineral Resources (Mined Land Reclamation)****PART**

- 420 General
- 421 Permits
- 422 Mined Land-Use Plan
- 423 Reclamation Bond
- 424 Enforcement
- 425 Civil Penalties
- 426 Hearings

PART 420**GENERAL**

(Statutory authority: Environmental Conservation Law, §§ 23-2703, 23-2705, 23-2709, 23-2721, 8-0117)

Sec.

- 420.1 Definitions
- 420.2 Scope

Sec.

- 420.3 Confidentiality
- 420.4 Relationship to SEQR

Historical Note

Part (§§ 420.1-420.4) filed Sept. 28, 1976 eff. immediately.

Section 420.1 Definitions. As used in this Subchapter, unless the context otherwise requires, the words defined in this section shall have the following meanings:

(a) *Affected land* means the area of land from which overburden or a mineral is to be or has been removed or upon which refuse or spoil is to be or has been deposited; or lands disturbed by the construction or improvement of haulageways; or lands disturbed by storage areas, repair areas, shipping areas and areas in which equipment, machinery, tools or other personal property is situated. *Affected land* shall also include any land disturbed by improper mining practices.

(b) *Applicant* means that person making application to the department for a permit to mine and who is responsible for fulfilling the requirements of the reclamation plan as stipulated in title 27 and all rules, regulations and orders promulgated thereunder.

(c) *Commissioner* means the Commissioner of Environmental Conservation.

(d) *Department* means the Department of Environmental Conservation.

(e) *Haulageway* means any road within the permit area which receives substantial use and which has been constructed or improved by the operator or permittee. Trails or paths between parts of a mine shall not be considered haulageways.

(f) *Landowner* means the person in whom the legal title to the surface rights of the affected land is vested.

(g) *Land-use objective* means the proposed use to be made of the affected land as described in the mined land-use plan.

(h) *Mine* means any pits or underground workings from which any mineral is produced for sale, exchange, commercial, industrial or municipal use and all shafts, slopes, drifts, or includes leading thereto, and includes all equipment above, on or below the surface of the ground used in connection with such pits or workings.

(i) *Mined land-use plan* means the applicant's proposal for mining and reclaiming the affected land. The mined land-use plan shall consist of a mining plan and a reclamation plan which shall include maps and other documents as required to describe and illustrate environmental, physiographic, cultural and surface conditions at and surrounding the mine as well as the applicant's proposed mining and reclamation methods.

(j) *Mineral* means aggregate, cement rock, clay, coal, curbing, dimension stone, dolostone, emery, flagstone, garnet, gem stones, gravel, gypsum, iron, lead, limestone, marble, marl, metallic ore, paving blocks, peat, riprap, roadstone, salt, sand, sandstone, shale, silver, slate, stone, talc, titanium, trap rock, wollastonite, zinc or any other solid material or substance of commercial value found in or on the earth. Overburden shall be considered a mineral whenever it is removed from the affected land for sale, exchange or use in the regular operation of a business.

(k) *Mining* means the extraction or removal of minerals from the ground or the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation or other processing of minerals at the mine location so as to make them suitable for commercial, industrial or construction use; but shall not include excavation or grading when conducted solely in aid of onsite farming or construction. Excavation or grading is deemed to be conducted solely in aid of onsite farming or construction when the operator presents to the department objective evidence which leads the department to reasonably conclude that actual farming or construction will occur at the site of excavation or grading concurrently with that excavation or grading or soon after it is finished. For the purposes of the construction exemption, the department may consider an approved building permit and site plans as objective evidence. Removal of limited amounts of overburden and mining when done only for the purpose of extracting samples or specimens for scientific purposes, or only for the purpose and to the extent necessary to determine the location, quantity or quality of any mineral deposit so long as no minerals removed during exploratory excavation are sold, processed for sale or consumed in the regular operation of a business.

(l) *Mining plan* means the applicant's proposal for mining, including a graphic and written description of the mine, the affected land and the mining method.

(m) *Operator* means any owner, lessee, or other person who operates, controls or supervises the operation of a mine. The operator may or may not be the applicant for a mining permit or the permittee.

(n) *Overburden* means all of the earth and other materials which lie above or alongside mineral deposits and includes all earth, soil and other materials disturbed from their existing state in the process of mining exclusive of the mined materials.

(o) *Owner* means the person who has title to the mineral deposits on any given tract of land and who has the right to extract minerals for sale and to appropriate the minerals he extracts therefrom either for himself or others or for himself and others.

(p) *Permit area* means all affected land.

(q) *Permittee* means any person who has been issued and who currently holds a valid permit to mine from the department.

(r) *Person* means any individual, public or private corporation, political subdivision, government agency, department or bureau of the State, municipality, industry, partnership, association, firm, trust, estate or any other legal entity whatsoever.

(s) *Reclamation* means the conditioning of the affected land to make it suitable for any productive use including but not limited to: the planting of forests, the planting of crops for harvest, the seeding of grass and legumes for grazing purposes, the protection and enhancement of wildlife and aquatic resources, the establishment of recreational, residential, commercial, industrial and historical sites or for other uses demonstrated to be consistent with the policy of the department.

(1) The permittee shall pay the costs of the public hearing, including the reporter's fees and the cost for two copies of the transcript of the hearing to be provided to the department and for physical accommodations for the holding of the hearing, if not held in department facilities.

Historical Note

Sec. filed Aug. 25, 1976; amd. filed Jan. 31, 1977 eff. immediately. Amended (1).

(t) *Reclamation plan* means the applicant's proposal for reclaiming the affected land, including a graphic and written description of the proposed use for all affected land, the method of reclamation and a schedule for performing reclamation.

(u) *Refuse* means that material which is considered worthless or useless and is to be rejected or discarded, including material commonly known as garbage, junk, rubbish or trash.

(v) *Spoil* means that material directly associated with a mineral deposit which is separated from the mineral in the process of mining, including material commonly known as debris, gangue, tailings or waste.

(w) *Spoil bank* means the accumulation of spoil piled outside of the mine workings or the place on the surface where spoil is piled, or the material commonly known as spoil heap.

(x) *Subchapter* means Parts 420-426 of Subchapter D of Chapter IV of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

(y) *Surface consolidated mine* means a mine from which such minerals as limestone, dolostone, sandstone, marble, slate, flagstone, curbing, dimension stone, riprap, abrasives, gypsum, iron, talc, titanium or other metallic or nonmetallic minerals are removed.

(z) *Surface unconsolidated mine* means a mine from which such minerals as topsoil, borrow, fill, peat, humus, sand or gravel are removed.

(aa) *Title 27* means title 27 of article 23 of the Environmental Conservation Law.

(bb) *Underground mine* means a mine from which any mineral is removed from below the earth's surface by means of a shaft, adit, drift, tunnel, slope, or incline, but shall not include minerals removed by means of a well.

Historical Note

Sec. filed Sept. 28, 1976; amd. filed April 24, 1986 eff. 30 days after filing. Amended (k).

420.2 Scope. (a) This Subchapter shall be interpreted to carry out the policies of the State to foster and encourage the development of an economically sound and stable mining and mineral industry, and the orderly development of domestic mineral resources and reserves necessary to assure satisfaction of economic needs compatible with sound environmental management practices; and to provide for the wise and efficient use of the resources available for mining and to provide, in conjunction with such mining operations, for reclamation of affected lands; to encourage productive use including but not restricted to: the planting of forests, the planting of crops for harvest, the seeding of grass and legumes for grazing purposes, the protection and enhancement of wildlife and aquatic resources, the establishment of recreational, home, commercial, and industrial sites; to provide for the conservation, development, utilization, management and appropriate use of all the natural resources of such areas for compatible multiple purposes; to prevent pollution; to protect and perpetuate the taxable value of property; and to protect the health, safety and general welfare of the people, as well as the natural beauty and aesthetic values in the affected areas of the State.

(b) The provisions of title 27 and this Subchapter shall apply to all mines from which 1,000 tons of minerals are to be removed from the earth within 12 successive calendar months after April 1, 1975.

(c) The provisions of title 27 and this Subchapter shall be statewide in application, except as provided in this Subchapter, and for the purposes stated in this Subchapter shall supersede all other State and local laws relating to mining. No local government shall be prevented from enacting or enforcing new or existing local zoning laws or ordinances or other local laws or ordinances which impose stricter mined land reclamation standards or requirements than those found in title 27 or this Subchapter.

(d) The provisions of title 27 and this Subchapter shall not apply to the Commissioner of General Services acting with respect to State-owned lands under water pursuant to the Public Lands Law.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

420.3 Confidentiality. (a) Information contained in applications for mining permits or any supporting documents shall not be considered to be confidential, unless the applicant claims and substantiates to the satisfaction of the commissioner that the information contained in the application is protected by section 88, subdivision 7, paragraph (b) of the Public Officers Law (Freedom of Information Law).

(b) The department shall guarantee the confidentiality of any information regarding mining operations, and reclamation of affected lands and control of pollution of the environment affected by mining, which is collected and disseminated by the department, when requested to do so by the applicant or permittee.

(c) Any information in the possession of the department may be offered and received in evidence, where otherwise admissible, in an adjudicatory or court proceeding authorized by law. Such information also must be provided to a government official whenever possession of the information is necessary to the performance of such official's duties. However, the department and/or presiding officer of the proceeding and/or government official shall take such precautions as may be consistent with the nature of the information and the circumstances of its release as will protect the confidentiality of any information which is required to be held confidential pursuant to subdivision (a) or (b) of this section.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

420.4 Relationship to SEQR. The State Environmental Quality Review Act (SEQR), article 8 of the Environmental Conservation Law, applies to mining and reclamation regulated by this Subchapter. An application for a mining permit on or after June 1, 1977 shall include all information required of an applicant pursuant to Parts 617 and 618 of this Title (6 NYCRR Parts 617, 618), including an environmental impact statement, if required.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

PART 421**PERMITS**

(Statutory authority: Environmental Conservation Law, §§ 3-0301, 8-0109, 23-2711, 23-2721)

Sec.

- 421.1 General provisions
421.2 Implementation schedule
421.3 Permit term and fees

Sec.

- 421.4 Alterations and amendments
421.5 Refusal to renew, suspension and revocation

Historical Note

Part (§§ 421.1-421.5) filed Sept. 28, 1976 eff. immediately.

Section 421.1 General provisions. (a) After April 1, 1975, a mining permit must be obtained from the department for every mine from which more than 1,000 tons of minerals will be removed from the earth within 12 successive calendar

PART 426**HEARINGS**

(Statutory authority: Environmental Conservation Law, §§ 23-2709, 23-2711, 23-2721)

Sec.

- 426.1 Hearings concerning the refusal to renew, suspension or revocation of permits and imposition of penalties

Historical Note

Part (§ 426.1) filed Sept. 28, 1976 eff. immediately.

Section 426.1 Hearings concerning the refusal to renew, suspension or revocation of permits and imposition of penalties. (a) Hearings concerning the refusal to renew, suspension or revocation of permits and hearings concerning the imposition of penalties shall be conducted pursuant to this section.

(b) All hearings shall be conducted before a hearing officer appointed by the department, who shall have full authority over the conduct and procedures of the hearing and the issuance of appropriate subpoenas.

(c) The permittee shall have the right of counsel and cross-examination and may produce witnesses and present evidence and have witnesses and documentary or other evidence subpoenaed in the permittee's behalf.

(d) The proceeding of all hearings shall be recorded by a reporter designated by the department and a transcript of same shall be prepared and filed by such reporter as a part of the hearing record.

(e) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(f) The department will issue its decision within 90 days of receipt of a complete transcript of the hearing.

(g) Only sworn testimony may be received in proceedings subject to this section.

(h) The department shall notify the permittee by personal service, or by registered or certified mail to the permittee's last known mailing address. The permittee shall then notify the following persons, by personal service or by certified or registered mail, postage prepaid, to their last known mailing addresses:

(1) the surety;

(2) the chairperson of the New York State Advisory Committee on the Extractive Mineral Industry;

(3) the chief administrative officer of any local government in which the mine is located. The permittee shall also notify each owner of property adjacent to the permit area by personal service, or by registered or certified mail, postage prepaid, to the last known mailing address of each such owner, or by publishing the notice in a newspaper of general circulation in the county in which the affected land is located. Each such notice shall be published once in each of two successive weeks. Proof of notification shall be provided by the permittee to the department in the form of an affidavit of service by mail, including copies of the return receipts requested, or an affidavit of personal service, or by submitting an affidavit of publication from the publishing newspaper, as the case may be.

cle 71 of the Environmental Conservation Law.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

424.2 Access to mines and mine records. (a) The department, including its employees, agents and representatives shall have the right at all reasonable times during normal business hours on normal business days, and after proper notification to the permittee and proper identification as department employees, agents and/or representatives, to enter and inspect any property or premises covered by a permit for the purpose of ascertaining compliance with title 27, the permit or this Subchapter. The permittee shall provide a person to accompany the department's representative during an inspection of the permit area when notification is provided, be it written or verbal, at least 24 hours prior to such inspection.

(b) The department, including its employees, agents and representatives, shall have access at all reasonable times during normal business hours on normal business days to mine records relative to mining and subsequent reclamation of the affected land for the purpose of ascertaining compliance with title 27, the permit or this Subchapter.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

PART 425

CIVIL PENALTIES

(Statutory authority: Environmental Conservation Law, §§ 23-2721, 71-1307)

Sec.

425.1 General provisions

Historical Note

Part (§§ 425.1) filed Sept. 28, 1976 eff. immediately.

Section 425.1 General provisions. (a) In addition to the refusal to renew, suspension or revocation of a mining permit the department may assess a penalty if it determines that a permittee has not complied with any of the terms of the permit; title 27; or any rule, regulation, standard or condition promulgated pursuant thereto. The department shall notify the permittee of the alleged violation in writing and the permittee shall have the right to request a hearing pursuant to Part 426 of this Title.

(b) Nothing in this Subchapter shall be deemed to abrogate the right of the department to order an immediate suspension of the mining permit or mining and reclamation operations or operations incidental or appurtenant thereto, pursuant to section 71-0301 of the Environmental Conservation Law.

(c) Any person who violates any provision of title 27 or any rule, regulation or order of the department made pursuant thereto shall be subject to a civil penalty of not more than \$1,000 for each act or omission constituting a violation for each day that such violation continues.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

months. An operator may include multiple mines under one permit if they are all located within the confines of a geographical region of the department. A separate mined land-use plan will be required for each mine. Any decision by the department to refuse to renew, or to suspend or revoke a permit, may apply, in the discretion of the department, to all or less than all of the mines under such permit.

(b) The department shall issue a mining permit whenever all of the following requirements are met:

- (1) the applicant submits a complete application;
 - (2) the applicant's mined land-use plan meets the requirements of Part 422 of this Title;
 - (3) the applicant provides an acceptable reclamation bond or acceptable substitute as provided for in Part 423 of this Title;
 - (4) the applicant is in compliance with other applicable provisions of the Environmental Conservation Law and departmental rules and regulations with respect to the subject mine, and, in the discretion of the department, to any other mine of the applicant; and
 - (5) the applicant complies with all of the procedural requirements of title 27 and this Subchapter.
- (c) A complete application for a mining permit shall consist of the following:
- (1) a fully completed set of forms as provided by the department;
 - (2) a mined land-use plan;
 - (3) the correct permit fee;
 - (4) all required affidavits of service; and
 - (5) an environmental impact statement where required by SEQR.

(d) Complete applications will be processed within 90 days of receipt. The department reserves the right to reject incomplete applications and to reject applications, in whole or in part, whenever the applicant is not in compliance with the Environmental Conservation Law and departmental rules and regulations.

(e) Within 10 days of receipt of a complete application, the department shall provide the applicant with a notice of application, which is not to be construed as approval of the application. The applicant shall, within 10 days, give this notice by either personal service; by registered or certified mail, postage prepaid, to the last known mailing address of each owner of property adjacent to the proposed permit area or by publishing the notice in a newspaper of general circulation in the county in which the affected land is located. In the latter case the notice shall be published once in each of two successive weeks. At the same time, the applicant shall give notice by personal service or by registered or certified mail to the chief administrative officer of each local government having jurisdiction over the affected land. Proof of notification shall be provided by the applicant to the department in the form of an affidavit of personal service; an affidavit of service by mail, including copies of the return receipts requested, or an affidavit of publication from the publishing newspaper.

(f) Within a period fixed in the notice of application, but not less than 15 days after notification, any person may file written comments with the department stating the precise grounds of support of, or opposition to, or interest in the application. Such time period shall commence at the time of first publication in the case of service by publication, or from the date upon which the latest personal service or service by mail is deemed to be completed pursuant to the Civil Practice Law and Rules. This comment period may be extended at the discretion of the department.

All written comments submitted during this period shall be evaluated by the department.

(g) The department shall promptly notify the applicant of the substance of such comments and shall allow 10 days for a response to said comments.

(h) The department shall notify the applicant, in writing, of the decision relative to the application and, if approved, of the amount of financial responsibility which is to be provided in the form of a reclamation bond or acceptable substitute, unless the applicant is exempted from the bonding requirements of title 27. Such notification shall include the form of the notice of approval or disapproval to be given by the applicant in accordance with the provisions of subdivision (e) of this section.

(i) Upon receipt of the reclamation bond or acceptable substitute and the required affidavits of service, the department shall issue the mining permit.

(j) A mining permit issued by the department shall consist of two parts. Part one shall be a permit certificate, or a copy of such certificate certified by the department, to be prominently displayed by the permittee at the site of the mine. The permit certificate must at all times be visible, legible and protected from the elements. Part two shall be the application and other documents on file with the department including such terms and conditions as may be imposed. The documents constituting part two shall be available for inspection at the department's headquarters for the region in which the mine is located and at the local office of the permittee for use by department personnel.

(k) All permits shall be conditioned upon compliance with an approved mined land-use plan. The department may also impose, as terms of the permit, such conditions as it may deem necessary or appropriate to satisfy the provisions of title 27 or this Subchapter.

(l) A mining permit will not be issued for an existing mine nor renewed for any mine if there is a finding, after notice and hearing, or a departmental order that the operation of the mine is in violation of any provision of the Environmental Conservation Law, or rule or regulation promulgated thereunder unless the applicant or permittee is in compliance with a schedule of abatement of such violation, or if there is no applicable schedule the applicant or permittee agrees to such a schedule or the department imposes one as a condition of the permit.

(m) Mining permits shall expire either annually or triennially and may be renewed upon application to the department at least 30 days prior to the expiration date of the permit. A renewal application shall be accompanied by a report, in accordance with section 422.4 of this Title, which shall be reviewed by the department prior to renewing a mining permit. Upon completion of the department's review process, the permittee shall be notified of any change in financial responsibility, or in the conditions imposed pursuant to subdivision (k) of this section.

(n) The department may refuse to issue or transfer a permit to any applicant who has had a mining permit issued pursuant to title 27 revoked, or who has had a reclamation bond or other security forfeited. If any officer of an applicant has been an officer of a corporation which has had a mining permit issued pursuant to title 27 revoked, or which has had a reclamation bond or other security forfeited, the department shall investigate the responsibility, if any, of the individual in question for the acts or omissions which were the grounds of such revocation or forfeiture. If the department finds that such individual was responsible, in whole or in part, for such revocation or forfeiture, the department may refuse to issue a permit to the corporate applicant of which such individual is an officer. If the department finds that the individual was not responsible, in whole or in part, for the acts or omissions which were the grounds of such revocation or forfeiture, the department shall issue

shall release the bond except as provided in subdivision (c) of this section. If the department does not approve reclamation, the permittee and the surety will be so notified. Such notification shall be given by certified mail and shall state the reasons for disapproving the reclamation and shall contain suggestions and recommendations for corrective action. Upon satisfactory completion of the corrective action and approval of reclamation, the department shall release the bond as described in this subdivision.

(b) A permittee may request a reduction of the amount of the bond after completion of reclamation on part of the affected land, when reducing the area of affected land or as provided in subdivision (c) of this section. The procedure for obtaining a reduction of the bond amount shall be by application for an alteration or amendment of the permit. The department may reduce the amount of the bond, if satisfied that the permittee has:

- (1) complied with the provisions of the mined land-use plan; and
- (2) (i) completed partial reclamation,
- (ii) reduced the area of affected land or
- (iii) completed reclamation subject to verification of success as provided in subdivision (c) of this section.

The department will inform the permittee and the surety in writing of the amount, if any, by which to reduce the bond.

(c) The department reserves the right to withhold approval of reclamation for a period not to exceed two years from the department's determination of compliance with the reclamation requirements of the mined land-use plan, in order to verify the success of reclamation. If the permittee requests the department to reduce the amount of the bond during this period, the new bond amount shall be sufficient to cover the cost of performing any additional work that may be necessary to correct or complete that reclamation which proves to be unsuccessful.

(d) Any suit brought upon the bond must be instituted within two years after release, cancellation or termination thereof.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

423.4 Exemptions. Political subdivisions, municipalities or agencies of the State are exempt from the bonding requirements of title 27 and this Subchapter.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

PART 424 ENFORCEMENT

(Statutory authority: Environmental Conservation Law,
§§ 3-0301, 23-2721, 23-2723)

Sec.
424.1 Violations

Sec.
424.2 Access to mines and mine records

Historical Note

Part (§§ 424.1-424.2) filed Sept. 28, 1976
eff. immediately.

Section 424.1 Violations. The provisions of title 27 and any rule, regulation or order, promulgated thereunder shall be enforced pursuant to title 13, arti-

and other criteria which may be considered relevant to the estimate. The bond shall be maintained for a period of two years after completion of reclamation as provided in section 423.3(c) of this Part.

(d) In lieu of the bond, the applicant may deposit cash or certified check, negotiable bonds of the United States government, United States treasury notes, United States treasury certificates of indebtedness, United States treasury bills, bonds or notes of the State of New York, bonds of any political subdivision in the State of New York, bonds of the New York State Housing Finance Agency or of other New York State agencies or authorities, or bonds of public corporations of the State of New York, an irrevocable bank letter of credit, a certificate of deposit, or other forms of financial security acceptable to the department. Acceptable substitutes, if furnished, shall be kept on deposit with the department for the duration of the bond period.

(e) If, in case of default, the amount of the bond established by the department is not sufficient to cover the cost of reclaiming the affected land, the permittee shall be liable for the full additional costs. These additional funds shall be obtained by agreement with the permittee or, if necessary, by placing a lien on any or all materials, machinery, implements and tools of every description which may be found at the mine, or on other assets of the permittee.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

423.2 Specific provision. (a) The form and terms of the bond shall be as prescribed by the department. The bond shall name the State as beneficiary and shall be signed by the applicant as principal and by a responsible corporate surety authorized to do business in the State of New York. The terms of the bond shall be such that the applicant as principal shall agree to reclaim the affected land in accordance with the reclamation plan and schedule submitted to and approved by the department. In addition, the principal shall protect the State against all accounts, damages, costs and judgments arising from the performance of said work.

(b) The bonding requirement shall remain the obligation of the original permittee regardless of a change in landowner or operator, unless the latter person has furnished a replacement bond or appropriate substitute and the transfer of the reclamation obligation to the subsequent person has been approved by the department.

(c) If, for any reason, the principal defaults in the performance of reclamation under the terms of the bond, or if the permit is revoked, the department may thereupon call the surety to complete the reclamation as provided for in the bond. The liability of the surety shall not exceed the amount of the bond.

(d) A reclamation bond shall not be cancelled by the surety without at least 30 days notice to the department. If the reclamation bond is, for any reason, cancelled by the surety, the permittee shall provide a valid replacement within 30 days after receiving notice thereof. Failure to provide a replacement bond or acceptable substitute within such period shall be considered a violation of the mining permit and may result in the immediate suspension and subsequent revocation thereof.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

423.3 Release of bond. (a) When a department determines that the permittee has satisfactorily completed reclamation and has complied with the provisions of the mined land-use plan, the department shall approve the reclamation and

a permit to such an applicant if otherwise entitled thereto.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

421.2 Implementation schedule. (a) The department shall implement the permit process provided for in title 27, in accordance with the following schedule:

(1) Phase I—the registration period. From April 1, 1975 to December 31, 1976 operators of all existing nonexempt mines shall file an abbreviated application for a mining permit which shall consist of:

- (i) an organizational report;
- (ii) a completed application form;
- (iii) an affidavit of service of the notice of application; and
- (iv) the correct permit fee.

Operators who intend to commence operation of a new non-exempt mine prior to December 31, 1976 shall also file such an abbreviated application at least 30 days prior to the proposed commencement of mining.

(2) Phase II—the full application period. Persons who have filed an abbreviated application during Phase I will be notified by the department of the date by which a complete application must be filed. The complete application shall include a mining plan map, prepared in accordance with section 422.2 of this Title, indicating the boundaries of the affected land as of April 1, 1975 or at the time of commencing a new mining operation. The complete application shall be filed in accordance with the schedule to be established by the department to assure orderly processing of applications and to allow disposition of all such applications by December 31, 1978.

(b) No person shall commence operating a new mine, which is subject to title 27, after December 31, 1976 unless a mining permit shall first have been obtained from the department.

(c) No person shall operate a mine which is subject to title 27, after December 31, 1978 unless a mining permit shall first have been obtained from the department.

(d) No person shall be liable for mining without a permit if such person has timely filed an abbreviated application or a complete application in accordance with this section.

Historical Note

Sec. filed Sept. 28, 1976; amd. filed Jan. 17, 1978 eff. Jan. 17, 1978.

421.3 Permit term and fees. (a) A mining permit may be obtained from the department for a period of either one year, or a period of three years. A fee of \$100 will be charged for a one-year permit. A fee of \$200 will be charged for a three-year permit.

(b) An annually expiring mining permit may be renewed for a like period for which a fee of \$50 will be charged. A triennially expiring mining permit may be renewed for a like period for which a fee of \$100 will be charged. The fee to renew a permit for a term different than that of the existing permit shall be the same as that for obtaining a permit for the new term.

(c) The fee to amend a permit shall be \$50.

(d) Political subdivisions, municipalities or agencies of the State are exempt from the fee requirements of title 27 and this Subchapter.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

421.4 Alterations and amendments. (a) A mining permit may be altered or amended for a change in the mined land-use plan by filing a written request with the department indicating the nature and substance of the change. The department will determine whether the proposed change is of a ministerial nature in which case the change shall be considered an alteration. If the department determines that the change is of a significant nature an amendment will be required. The department shall inform the applicant of its determination within 10 days of receipt of the request. The transfer of a mining permit shall be considered an amendment and will be subject to the requirements and procedures contained in this section. The permittee will be allowed to continue to operate the mine under the terms of the existing permit until the amendment is granted.

(b) In the event of unforeseen or emergency situations, immediate operating approval may be granted upon verbal request to the department. The permittee shall submit a written request to the department on the first business day following the verbal request. The department shall provide written confirmation following receipt of a written request and an inspection of the subject mine. If approved, the permittee will have 30 days in which to submit an amendment application.

(c) All applications for amendments must comply with the provisions of section 421.1 of this Part except as modified in subdivision (b) of this section. An amendment application may be submitted in conjunction with an annual report, upon renewing a permit, or at any other time as deemed appropriate by the permittee or if required by legislative, administrative or judicial action. The amendment fee shall be waived if the amendment is made at the time of renewal or if said amendment is required by legislative, administrative or judicial action.

(d) Nothing in this section shall limit the authority of the commissioner to issue a summary abatement order pursuant to section 71-0301 of the Environmental Conservation Law.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

421.5 Refusal to renew, suspension or revocation. (a) The department may refuse to renew a permit, in whole or in part, upon a finding that the permittee is in repeated or willful violation of any of the terms of the permit; title 27; or any rule, regulation, standard, or condition promulgated pursuant thereto. When the department denies an application for renewal of a permit, the permit shall expire as scheduled unless a hearing is requested by the permittee prior to said expiration date. In the latter case, the permit will be extended until a date which an order of the department made after such hearing may provide. Such extension shall not be construed as condonation by the department of the permittee's actions prior to or during the extension period.

(b) The department may suspend or revoke a permit, in whole or in part, upon a finding that the permittee is in repeated or willful violation of any of the terms of the permit, or provisions of title 27, or for repeated or willful deviation from the mined land-use plan. Suspension or revocation of a permit shall become effective 15 days after the mailing or service of notice to the permittee unless a hearing requested by the permittee, in which case such action will be effective upon any date which an order of the department made after such hearing may provide.

(c) The department shall notify the permittee by certified mail or personal service, specifying in writing the charges and grounds upon which renewal of the permit is to be refused or the permit is to be suspended or revoked. Upon notice by the department of a refusal to renew, a suspension or a revocation of a permit, the

423.3(c) of this Part.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

422.4 Reports. (a) The permittee shall file reports, on forms provided by the department, at the times indicated in this section and at other such times as the department may require.

(b) A report shall be required at the time of permit renewal and shall accompany the renewal application. The report shall include the number of acres of affected land and the number of acres reclaimed during the report year. The department should also be advised at this time of any changes in the reclamation requirements of the municipality having jurisdiction over the affected land.

(c) A report may be required to provide the department with information to be compiled in an annual report relative to the mined land reclamation program. Said report may be requested either during the active operation of the mine, after mining has ceased, or as the land is being reclaimed.

(d) A termination notice shall be filed 60 days prior to the scheduled temporary or permanent cessation of mining. The termination notice shall provide the date mining is to cease and other information requested on the form.

(e) If the department extends the reclamation period, a report indicating the status of reclamation during such extension, shall be required on a monthly basis unless a longer period is prescribed by the department.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

PART 423

RECLAMATION BOND

(Statutory authority: Environmental Conservation Law, §§ 23-2717, 23-2721)

Sec.

423.1 General provisions
423.2 Specific provisions

Sec.

423.3 Release of bond
423.4 Exemptions

Historical Note

Part (§§ 423.1-423.4) filed Sept. 28, 1976 eff. immediately.

Section 423.1 General provisions. (a) As a condition precedent to the issuance of mining permit, each applicant shall furnish a reclamation bond or appropriate substitute, as provided in this Part, which is conditioned upon conformance with the applicant's mined land-use plan.

(b) A person who has filed applications for more than one mine may furnish a blanket bond for the total amount of the financial obligation in lieu of individual bonds for each mine location.

(c) The amount of the bond shall be determined by the department and shall be based upon the total estimated cost to the state for completion of reclamation consistent with the minimum basic reclamation requirements as described in section 422.3(b) of this Title. This cost and the corresponding amount of the bond shall be determined by the department on the basis of an evaluation of the following factors: the type of mine; the number of acres of affected land; the geographic location of the mine; the proposed land-use objective and basic reclamation requirements; the length of the permit period; the proposed method and schedule of reclamation;

consistent with the land-use objective as designated in an approved mined land-use plan.

(a) Any area designated for revegetation shall be covered with an amount and type of material sufficient to support the growth of the proposed plant material. A minimum of six inches of a cover material with a soil composition capable of sustaining plant growth shall be provided on all land to be revegetated. The amount of soil cover may be reduced if the applicant or permittee can demonstrate that a lesser amount will be sufficient to support the growth of the proposed plant material in accordance with the requirements contained in this subparagraph.

(b) Vegetative material used in reclamation shall consist of grasses, legumes, herbaceous or woody plants, shrubs, trees or a mixture thereof which is consistent with site capabilities such as drainage, pH, soil depth, available nutrients soil composition and climate. Such vegetation should be designed to provide a cover consistent with the stated land-use objective and which does not constitute a health hazard.

(c) Plant material to be utilized in revegetating the affected land shall be planted during the first planting season following the preparation of the land for such purpose.

(d) An acceptable vegetative cover shall be considered to be a permanent stand or a stand capable of regeneration and succession sufficient to assure 75 percent coverage of the areas planted if only ground cover (no trees) is utilized, or a 60 percent survival rate for shrubs and trees which are utilized, by the end of the second growing season after planting. If revegetation is not completely successful, the areas of failure must be randomly distributed, shall not exceed one-half acre in every two acres so treated and shall not endanger the success of revegetation in adjacent areas within the affected land.

(3) A schedule, accepted or designated by the department which provides details as to the timing for each phase of reclamation.

(e) The permittee shall reclaim all affected land within a two year period after mining ceases unless the department shall approve a longer period. The reclamation period may be extended in the following cases:

(1) upon submission by the permittee of evidence, satisfactory to the department, that reclamation cannot be completed within the approved time schedule. An extension shall be granted for this case only when the permittee has made a reasonable effort to comply with the provisions of title 27 and this Subchapter.

(2) upon the temporary shutdown of a mine, during which time the permit and reclamation bond requirements shall remain in force. The permittee will also be required to maintain the mine in a condition which does not result in a contravention of environmental standards.

(f) The permittee shall notify the department when reclamation of the affected land has been completed. The department shall conduct an inspection within 15 days of receipt of said notification to establish that reclamation has been performed in accordance with the mined land-use plan as submitted by the permittee. If the inspection indicates that the permittee has not complied with the reclamation provisions of the mined land-use plan, reclamation shall not be approved. In such case, the permittee shall be required to correct inadequacies encountered during the department's review process. If the department determines that the permittee has complied with the reclamation provisions of the mined land-use plan, reclamation shall be approved and the bond shall be released except as provided in section

permittee may, within 15 days, request a hearing pursuant to Part 426 of this Title, which shall be held within 60 days of the date of mailing or service of the notice.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

PART 422

MINED LAND-USE PLAN

(Statutory authority: Environmental Conservation Law,
§§ 23-2713, 23-2715, 23-2721)

Sec.	Sec.
422.1 General provisions	422.3 Reclamation plan, specific provisions
422.2 Mining plan, specific provisions	422.4 Reports

Historical Note

Part (§§ 422.1-422.4) filed Sept. 28, 1976
eff. immediately.

Section 422.1 General provisions. (a) Every applicant for a mining permit shall submit to the department a mined land-use plan which shall set forth in detail an outline of the mining property and the affected land, the applicant's mining plan and the applicant's reclamation plan. In order to help insure that the mined land-use plan and the land-use objective are not in conflict with the goals and objectives of the community in which the mine is located, the applicant shall show in his plan how the proposed land-use objective relates to any officially adopted county and local plan(s) and local zoning ordinance(s). The applicant shall also indicate the nature and extent of any consultation with county and local planning, conservation, and environmental management agencies in this regard. After the department has issued a mining permit, the permittee shall not deviate or depart from the mined land-use plan without approval by the department of an alteration or amendment thereto, as provided in section 421.4 of this Title.

(b) The applicant's mining and reclamation plans shall describe the mining method, as designated by the applicant on the basis of current or anticipated mining practices, and the reclamation method, having as its objective the preparation of the affected land for a future productive use. The proposed method of operating a mine and the method of reclaiming the affected land to achieve the applicant's land-use objective shall be compatible with sound environmental management practices. To this end the mining and reclamation plans shall be consistent with the purposes and policies as set forth in section 420.2 of this Title.

(c) The mined land-use plan shall be presented in a combination of graphic (map) and written (text or narrative) form. The information to be presented in graphic form shall be submitted on a United States geological survey 7 1/2 minute quadrangle sheet (unless unmapped at that base in which case a 15 minute sheet will suffice) which has been enlarged to the required scale as described in this section. An equivalent map, prepared on the required scale, may be utilized in lieu of a quadrangle sheet. The equivalent map, if utilized, shall be prepared by an engineer, geologist, licensed land surveyor or other person trained in such plan and map preparation. Vertical aerial photographs or maps prepared on an aerial photo base may also be utilized when presenting information in graphic form. The department reserves the right to reject aerial photographs on the basis of their being out of date, of poor quality, of improper scale or for other reasons which render them unsatisfactory for the required purpose. All maps and photographs shall be presented with a horizontal scale not to exceed one inch equals 660 feet. Contour intervals and/or

cross sections shall be as prescribed by the department. Overlays may be submitted in conjunction with either maps or photographs to illustrate any of the required information. The maps and photographs shall be prepared in a neat, legible manner and shall include a title block and legend containing the following information:

- (1) the name of the mine;
- (2) the county and town in which the mine is located;
- (3) the name of the U.S.G.S. quadrangle sheet on which the mine location is shown;
- (4) the scale, contour interval, where required, a north arrow and a reference datum;
- (5) the location of the groundwater table where such information is available;
- (6) the name of the person responsible for the preparation of the maps and/or photographs; and
- (7) the date of preparation.

(d) Information, documents and bonds which have been supplied by the applicant in fulfillment of local governmental reclamation requirements may be submitted to the department for consideration as satisfaction of the State requirements.

(e) An applicant proposing to conduct a mining operation in conjunction with a Department of Transportation contract, in accordance with the requirements of said agency's contract documents and specifications, may submit a copy of the contract agreement to the department in lieu of a mined land-use plan. If a mining permit is issued, the contract documents and specifications shall satisfy the requirements of this Part and shall be enforceable as such. The department will monitor the mining operation in cooperation with the engineer-in-charge to insure conformance with title 27 and this Subchapter.

(f) Before taking action on the application, the department may require additional information, explanation, documents, maps or photographs, where deemed necessary or appropriate to achieve the policies, objectives or requirements of title 27 and this Subchapter.

(g) The department may modify any of the substantive requirements of this Part upon a showing by the applicant that the proposed modification will achieve the same degree of environmental protection as would be achieved by compliance with the provision for which modification is requested. Requests for modification must be in writing in the original application, renewal application or by amendment.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

422.2 Mining plan, specific provisions. (a) The mining plan shall indicate: the general geographic location of the mine; an outline of the affected land; the location and description of topographic, cultural and land-use features within and adjacent to the affected land; a description of the existing condition of the ground surface at the mine including areas already mined or disturbed by mining activity; the applicant's proposed method of mining including proposals for minimizing the effect of mining on the environment and on the property, health, safety and general welfare of the people of the State.

(b) The graphic portion of the mining plan shall consist of a map or photograph prepared in accordance with section 422.1(c) of this Part. The information to be presented in graphic form shall include:

- (1) an accurate geographic location of the mine;
- (2) the location of adjacent topographic, cultural and land-use features

of such impoundments does not contravene the standards established by the department pursuant to articles 15 and 24 of the Environmental Conservation Law as applied to both protected and non-protected waters.

(a) Water impoundments constructed during mining shall either be incorporated into the final use of the land or shall be reclaimed in accordance with requirements for all affected land.

(b) All water impoundments and associated structures shall be designed and constructed in accordance with acceptable engineering practice and applicable government standards.

(c) All water impoundments shall be constructed in a manner which allows the continuous movement of water, such as by evaporation, percolation or flow, and which precludes the creation of stagnant, or otherwise undesirable conditions.

(d) All water impoundments shall be constructed with features to allow a safe and convenient means of entry and exit for inspection or use.

(e) The discharge of water from any impoundment to either surface or subsurface waters shall be governed by the regulations of the department relative to the preservation of the quality and purity of such waters.

(v) **Grading.** All mine faces and openings shall be treated in such a manner as to leave them in a condition which minimizes the possibility of rock falls, slope failure and collapse. The type of treatment shall be compatible with the surrounding terrain and shall be based upon the natural characteristics of the material including the grain size of the mineral, degree of consolidation, weathering characteristics, discontinuities (areas or planes of weakness) and the height and configuration of a face or opening. Such treatment shall be consistent with the applicant's land-use objective.

(a) A mine face which is loose or fractured and unlikely to hold a stable slope shall be stabilized by the use of controlled blasting or scaling; by the use of benches, flatter slopes or reduced face heights or by the use of artificial rock stabilization methods such as rock bolting and the application of pneumatically projected concrete.

(b) All ridges, peaks and slopes created either by excavation of a mineral or by the disposal of spoil shall be left no steeper than the following: rock (ledge or bedrock)—90 degrees depending upon the condition and characteristics of the formation as it exists in the mine; talus (broken rock)—37 degrees, or a slope of one vertical on one and one-quarter horizontal, unless the talus is to be covered and revegetated in which case the slope shall not exceed that which is required for fine sand, silt and clay; coarse sand and gravel—33 degrees, or a slope of one vertical on one and one-half horizontal; fine sand, silt and clay—26 degrees or a slope of one vertical on two horizontal. The slope provisions contained in this clause may be modified with the approval of the department.

(c) The perimeter of a mine shall be treated in a manner so as to eliminate hazards and to minimize the visual impact of the mine to the maximum practical extent. Treatment to minimize the visual impact of the mine may include the use of berms, shrub and tree plantings and fencing.

(d) All openings to underground mines shall be backfilled, sealed or otherwise treated in accordance with applicable Federal and State statutes and rules and regulations.

(vi) **Revegetation.** A vegetative cover shall be provided on the affected land where vegetation is indigenous to the area and where revegetation is

feet. All cover material shall be identified in the plan and must be acceptable to the department. Cover material which is to be utilized in areas to be revegetated must conform to the revegetation requirements contained in this section.

(c) Spoil and unused mineral stockpiles may be utilized to blend areas of sharply contrasting slopes or to provide a cover material consistent with the proposed reclamation plan. That material which is not utilized for the above purposes and which remains at the mine shall be treated in accordance with all other requirements for the disposition of materials, and with the requirements for grading, drainage, erosion control and revegetation consistent with the applicable standards as described in this subdivision.

(d) Large blocks of rock, boulders or other similar materials which are to remain on the affected land shall be included in landscaping or shall be covered as described in this section.

(e) Trees, brush, stumps and other vegetative material remaining on the affected land may be burned, reduced to a mulch or covered as hereinabove described. The burning of the material shall only be allowed if the permittee has obtained a restricted burning permit from the department.

(f) All machinery, equipment, tools and other personal property or any portion thereof shall either be removed from the permit area, disposed of on the site or incorporated into the final use of the affected land. Personal property which is disposed of on the site shall be considered as refuse and shall be treated in accordance with the standards for the disposition of materials as contained in this subdivision.

(ii) *Treatment of haulageways.* Haulageways within the permit area shall be incorporated into the final use of the land or shall be reclaimed in accordance with the standards applicable to other affected land.

(a) Those haulageways which are to be retained as public roads or travelways in conjunction with the applicant's land-use objectives shall be subject to applicable governmental requirements.

(b) Those haulageways which are not to be incorporated into the final use of the land shall be treated as affected land and reclaimed in a manner which is consistent with the proposed final land use.

(iii) *Drainage.* Every reasonable effort shall be made to minimize the disturbance of the prevailing hydrologic balance at and adjacent to the mine.

(a) All water discharged to surface water or to groundwater shall be governed by the rules and regulations of the department relative to the quality and purity of the waters of the State.

(b) Water courses or impoundments shall be provided to transmit, store or remove surface water run-off and to reduce the potential for flooding and the subsequent erosion, siltation and pollution of adjacent streams or lands.

(c) Drainage and water control features (channels, culverts, impoundments, etc.) which could be directly influenced by the effects of flooding shall be designed to protect the property, health, safety and general welfare of the people of the State. The design standards shall be such that reclamation will not have a detrimental effect on such property through an increase in the amount or rate of runoff or erosion, or by a change in the drainage pattern.

(iv) *Water impoundments.* Water may be impounded for wildlife, recreation, water control or water supply purposes provided that the construction

including, but not limited to, landforms, drainage, bodies of water, roads and buildings;

(3) an outline of the affected land; and

(4) the location and size of the following elements of mining: areas of mineral extraction or removal (cuts and excavations); areas of mineral preparation and processing (stockpiles, settling ponds and treatment facilities); haulageways; areas of mineral, refuse and spoil storage; repair and shipping areas; drainage and water control features; and screening.

(c) The written portion of the mining plan shall consist of a description of the mine and the mining method. The information to be presented in written form shall include:

(1) a description of the affected land indicating the present use of the land. The description shall also indicate the present physical condition of the land including the existence of structures, vegetation and water cover;

(2) a description of the existing or proposed mine indicating if the operation is a surface consolidated, surface unconsolidated or underground mine;

(3) a description of the mining method indicating the method of extraction, the sequence of cuts and excavations, the disposition of materials other than through sale, exchange, commercial, industrial or municipal use, and the use of haulageways. The applicant shall be governed by the following standards when submitting the required information.

(i) the method of extraction shall mean removal such as by drilling and blasting, the use of mechanical equipment (backhoe, shovel, front end loader, dragline) or by dredging.

(ii) Any cut or excavation within the permit area, whether it is for the purpose of gaining access to a mineral, mining a mineral, or of transporting a mineral shall be considered to affect the reclamation plan unless the applicant can demonstrate otherwise. Shafts, drifts, adits, tunnels, lifts, and inclines shall be considered types of cuts and excavations.

(iii) The perimeter of a temporary or permanent mine floor shall not be established closer to either the property line most nearly adjacent to the affected land or to any easement within or adjacent to the affected land than the following: a distance of 25 feet measured in a horizontal plane when the adjacent property or easement is at or below the proposed final elevation of the affected land; a distance equal to the sum of 25 feet plus one and one-half times the height of the mine face in an unconsolidated material or a distance equal to the sum of 25 feet plus one and one-quarter times the height of the mine face in a consolidated material, when the adjacent property is at a higher elevation than the affected land. The applicant may, with the approval of the department, modify the distance requirements contained in this subparagraph.

(iv) The perimeter of a stockpile or spoil bank shall not be established closer to either the property line most nearly adjacent to the affected land or to any easement within or adjacent to the affected land than a distance of 25 feet. The applicant may, with the approval of the department, modify the distance requirement contained in this subparagraph.

(v) The disposition of all materials utilized during or resulting from mining shall be as follows:

(a) All refuse which is removed from the site during mining shall be disposed of in accordance with applicable rules and regulations of the department relative to solid waste management (refuse disposal).

(b) Materials which are to be disposed of during reclamation shall be

stored or stockpiled either within the permit area or at some other location identified by the applicant. These materials shall be temporarily treated to prevent their becoming unstable, hazardous, a source of pollution of the environment, or damaging to other property. Such treatment may consist of stabilization by stockpiling, grading, natural or artificial covering, screening or any other effective method of achieving the required results. Final treatment of these materials shall be in accordance with the requirements for reclaiming the affected land as contained in section 422.3 of this Part.

(vi) Plans for the use and treatment of haulageways shall provide for the control of drainage, air and water pollution and erosion where such features or processes affect or are likely to affect the surrounding property.

(4) A description of the applicant's proposed method for preventing pollution, reducing soil erosion, and minimizing the effect of mining on the people of the State shall be required when and to the extent necessary to achieve compliance with the regulations of the department relative to: land use; air and water quality; solid waste management; the use and protection of waters; the protection of the natural resources of the State including soil, forests, water, fish, wildlife, and all aquatic or terrestrial related environment, and to any other applicable standards. The following methods, a combination thereof, or equally effective substitutes, may be utilized to accomplish the above stated objectives:

(i) Dust and noise control—may be provided by the utilization of water and chemicals for dust control; through the utilization of equipment which is adequately muffled to prevent excessive noise and vibration; and through the use of screening for control of dust and/or noise;

(ii) Drainage and water control—may be provided by the utilization of existing natural waterways and water bodies and by the construction of additional channels, water impoundments or water control equipment. Plans for water control equipment, where utilized, shall be submitted by the applicant in conjunction with the written portion of the mining plan. The alteration of stream beds or banks located within the permit area will be subject to the regulations of the department relative to the use and protection of waters promulgated pursuant to sections 15-1501 and 15-0505 of the Environmental Conservation Law.

(iii) Screening—may consist of either artificial or natural barriers such as berms, fences, shrubs, trees or any combination of these which have the multiple effect of confining dust and flying particles to the mine, reducing noise levels, and which minimize the visual impact of the mine on the people of the State.

Historical Note

Sec. filed Sept. 28, 1976 eff. immediately.

422.3 Reclamation plan, specific provisions. (a) The reclamation plan shall describe the applicant's proposed land-use objective to be achieved in the final stage of reclamation; the proposed method of reclaiming the affected land providing, where possible, for orderly, continuing reclamation concurrent with mining; and a schedule for reclaiming the affected land.

(b) Acceptable basic reclamation requirements as contained in this section shall provide for the development of the affected land either to a condition or physical state which is similar to and compatible with that which existed prior to any mining or which encourages the future productive use of the land. Basic reclamation shall include: grading and slope treatment, disposal of refuse or spoil, drainage and water control features, and revegetation; proposals for the prevention of pollution, the protection of the environment, the protection and perpetuation of the taxable value

of property, and the protection of the property, health, safety and general welfare of the people of the State. The applicability of such requirements shall be determined by the department on the basis of the location of the affected land, the type of material being mined and the natural processes to which the affected land will be subject. When the proposed reclamation plan consists of subsequent construction, the site may be so prepared. In such cases, there must be a contractual agreement on file with the department at the time mining ceases indicating that construction will commence within six months unless this period is extended by the department. The applicant must demonstrate to the satisfaction of the department that adequate measures will be taken to protect the environment during such period. If construction does not commence within the six month period after the termination of mining, or, if construction is for any reason thereafter terminated before completion, the permittee shall be responsible for reclaiming the affected land to a condition which satisfies the basic reclamation requirements as contained in this Subchapter.

(c) The graphic portion of the reclamation plan shall consist of a map or photograph prepared to the same standards as for the mining plan. The information to be presented in graphic form shall include:

(1) an outline of the affected land;

(2) a grading plan which illustrates, by the use of contours or accompanying cross sections, the proposed final grades to be established on the affected land insofar as it is possible to determine; and

(3) a map which illustrates the proposed final stage of reclamation for all affected land including but not limited to the following: revegetated areas, drainage features, water impoundments, building sites, recreational areas, wildlife areas, haulageways and any other feature consistent with the applicant's land-use objective and proposed reclamation method.

(d) The written portion of the reclamation plan shall include:

(1) a description of the applicant's land-use objective such as: farming; pasture; forestry; recreation, industrial, commercial or residential uses; solid waste disposal; a combination thereof; or other uses acceptable to the department. The affected land, or a portion thereof, may be preserved as a scientific or historical site upon the recommendation of a qualified professional in either field and with the approval of the department.

(2) a description of the applicant's proposed method of reclaiming the affected land which is consistent with the stated land-use objective. This description shall include, specifics relative to: the disposition of all refuse, spoil, stockpiles and personal property; the treatment of haulageways; drainage and water control; water impoundments; grading and revegetation. The applicant shall be governed by the following standards in submitting the required information:

(i) **Disposition of materials.** All refuse, spoil, unused mineral stockpiles and personal property shall either be removed from the permit area or utilized during reclamation of the affected land.

(a) Off-site disposal of refuse during reclamation shall be governed by applicable rules and regulations of the department relative to solid waste management (refuse disposal).

(b) On-site disposal of refuse shall be accomplished in a manner such that emanations (fumes and leachate) therefrom shall not cause or contribute to a condition in contravention of the classifications and standards of quality and purity of the air and waters of the State. Refuse and other material (clauses [d], [e] of this subparagraph) which will not support vegetative growth shall be covered to a minimum compacted depth of two

INTER OFFICE CORRESPONDENCE

TO: Town Planning Board
FROM: Town Fire Inspector
DATE: 22 January 1990
SUBJECT: Tri- Fam Associates

PLANNING BOARD REFERENCE NUMBER: PB-89-47
DATED: 4 January 1990

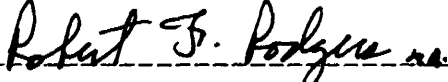
FIRE PREVENTION REFERENCE NUMBER: FPS-90-003

A review of the above referenced site plan was conducted this date with the following being noted:

- 1) The water main lines and fire hydrant locations are not shown on the site plan as requested by my review FPS-89-112. This is required by Chapter 21, Section 21 of the Town Code.

This site plan is not acceptable.

PLANS DATED: 3 January 1990, Revision 1.


Robert F. Rodgers; CCA
Fire Inspector

RR:mr
Att.

cc: M.E.
TECTONIC



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

45 QUASSAICK AVE. (ROUTE 9W)
NEW WINDSOR, NEW YORK 12550

TELEPHONE (914) 562-8640
PORT JERVIS (914) 856-5600

RICHARD D. McGOEY, P.E.
WILLIAM J. HAUSER, P.E.
MARK J. EDSALL, P.E.

Licensed in New York,
New Jersey and Pennsylvania

17 January 1990

MEMORANDUM FOR RECORD

TO: Town of New Windsor Planning Board
Attention: Carl Schiefer, Chairman

FROM: Mark J. Edsall, P.E., Planning Board Engineer

SUBJECT: Trifam Townhouse Site Plan
Ceasars Lane (T89-47)

Pursuant to the request of the Planning Board Members, the undersigned and Building Inspector Babcock made random visits to the subject site to determine if excavation and mining operations are continuing on the site, subsequent to the applicant being advised that same is not permitted and should not continue.

On 16 January 1990 the undersigned and Building Inspector Babcock visited the site and observed equipment tracks and other evidence which resulted in our mutual conclusion that excavation had recently been performed on the site. A stockpile of material was also observed, as well as a backhoe being parked on site. During our visit, the open excavation face was unstable and, in fact, material was observed in movement. Further, it was observed that several large trees along the top of the excavated face were undermined and potentially unstable.

Based on the above observations made pursuant to your request, I await your further direction on what action should be taken.

Respectfully submitted,


Mark J. Edsall, P.E.
Planning Board Engineer

MJEmk

cc: Building Inspector Babcock
Supervisor George A. Green

A: SCHIEFER.mk

cc: P.B. Members 1/20/90 

BUILDING INSPECTOR, PLANNING BOARD ENGINEER, FIRE INSPECTOR,
D.O.T., O.C.H., O.C.P., D.P.W., ~~SEWER~~, SEWER, HIGHWAY, REVIEW
FORM:

The maps and plans for the Site Approval _____

Subdivision _____ as submitted by

Tectonic Eng. for the building or subdivision of

Tri-Farm Assoc. has been

reviewed by me and is approved ☒

~~disapproved~~ _____.

~~If disapproved, please list reason~~ _____

Water is available for this property

HIGHWAY SUPERINTENDENT

[Signature]
WATER SUPERINTENDENT

SANITARY SUPERINTENDENT

DATE

✓
CC: M.E.

BUILDING INSPECTOR, PLANNING BOARD ENGINEER, FIRE INSPECTOR,
D.O.T., O.C.H., O.C.P., D.P.W., WATER, SEWER, ~~HIGHWAY~~, REVIEW
FORM:

The maps and plans for the Site Approval Casa La Torre House
Subdivision _____ as submitted by
Bennie for the building or subdivision of
_____ has been
reviewed by me and is approved _____,
disapproved ✓.

If disapproved, please list reason Better location for
enter and exit driveways (one on curve). No lot
see much of drainage layout.

Fred Lacy, Jr.
HIGHWAY SUPERINTENDENT

WATER SUPERINTENDENT

SANITARY SUPERINTENDENT

1/12/90
DATE

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BUILDING INSPECTOR, PLANNING BOARD ENGINEER, FIRE INSPECTOR, ~~ENGINEER~~
D.O.T., O.C.H., O.C.P., D.P.W., WATER, SEWER, HIGHWAY, REVIEW
FORM:

The maps and plans for the Site Approval _____

Subdivision _____ as submitted by

Donald Bernier for the building or subdivision of

Tri-Farm Assoc. Casares Lane Townhouse Complex has been

reviewed by me and is approved _____,

disapproved ☒ _____.

If disapproved, please list reason _____

No information regarding sewer service

HIGHWAY SUPERINTENDENT

WATER SUPERINTENDENT

Luman R. Masten Jr.
SANTITARY SUPERINTENDENT

January 5, 1990
DATE

PRESUBMISSION CONFERENCE: Trifam Townhouse Mr. Don Benvie of Tectonic came before the Board presenting this proposal.

BY MR. BENVIE: We are here for presubmission conference for this project for John Smitchger. Basically what we are looking at it is not really townhouse complex. It is going to be 50, excuse me, seven, 75 rental units, the garden

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apartment type. We wanted to come in to talk to the board to get some feeling about the configuration. One of the situations that we have on the site, there is a lot of earth that is going to have to be removed as part of the grading plan. The final grading plan there is what we had laid out was with a preliminary grading map there in order to get a feel for what kind of yardage of material. There is an extensive amount of earth to be moved. One of the intents was to talk to the Board to get a feel for what they would be amenable to with regard to a layout and once we go onto a point where we have an agreement on a sketch layout, while the approval process is undertaken, to hopefully get some kind of a site grading permit in order to start moving the earth, because there is probably a couple of years worth of earth work we are looking at half a million yards of materials that would be graded out. This is just one of the preliminary concepts we looked at for grading. I had spoken with Mark last week about the proposed contours and he made a point that was well taken about possibly terracing the site so the upper units would be up a little higher and digress the height of the back slope. Right now there is a 30 foot slope in the back which might be a little bit too high.

BY MR. MCCARVILLE: Isn't there something we'd want to set up on a walking tour?

BY MR. SCHIEFER: We will go by that many times. What is in back, I don't know?

BY MR. PAGANO: Have you done any test boring? Is this pure soil or are you going to be blasting?

BY MR. BENVIE: Right now as far as visual it is sand and gravel out there. We are talking to the client about doing some test pits and possibly test borings because if there is rock, it is going to make an impact on what he can do with removal of soil from the site.

BY MR. MCCARVILLE: You plan to remove the soil?

BY MR. BENVIE: There will be area on site probably to do some separation of material.

BY MR. MCCARVILLE: At a half a million yards, you are going to have to get state approval on this.

BY MR. BENVIE: I talked to Mark. That is one thing we are

trying to clarify with D.E.C. Originally we thought we had to get state approval because of the amount of material, but there seems to be a little bit of a -- I haven't got a clear answer. They had indicated what we were, it was indicated to us last time, last week, was that if the ultimate result if you are just mining to mine then yes, you need a permit. If you are removing earth as part of a development process, then you don't need a permit. This is something we are trying to look into because right now it is --

BY MR. PAGANO: I'd want to know more about the axel weights, load bearing surface of the road you are going to be transversing on. There is a lot more than meets the eye.

BY MR. MCCARVILLE: There is tonnage limit where if you exceed so many cubic yards, you are required by law to get it and I can look it up.

BY MR. LANDER: I think it is 1,000 yards. Anything over 1,000 yards that is trucked off the site a year.

BY MR. BENVIE: That is including if you are doing a site development because you can use it on the site, you can use as much dirt as you want, but if you truck off site we are getting mixed signals from the D.E.C. because we thought we needed a mining permit but they said if the removal is part of the process of developing the site, it is not considered a mining operation and they don't look at it as such.

BY MR. SOUKUP: How many yards in the plateau?

BY MR. BENVIE: To level the side a half million yards.

BY MR. SOUKUP: What is it, Don?

BY MR. BENVIE: Sand and gravel.

BY MR. BABCOCK: When Washington Green was doing excavation and blasting, the D.E.C. said that they didn't get involved as long as it was in accordance with approved plans from the Town of New Windsor.

BY MR. LANDER: Most of the material was used on site.

BY MR. BABCOCK: Washington Green came in and asked if they could take so many thousands.

BY MR. SCHIEFER: They got approval after they took it out.

BY MR. RONES: You make the application for the permit to the D.E.C. and if they deny it because you don't need it, we will see that that will make everybody feel more comfortable.

BY MR. BENVIE: We have prepared the paperwork and there has been one previous submittal. The way we'd like to proceed if we are going to be dealing with the D.E.C. is because the amount of material that is involved and that is why we are here now because the amount of material, assuming once we reach agreed upon sketch plan to start doing some preliminary site grading and this is assuming whatever has to be done with D.E.C. if it is required is also done and I just bring this up now because it is down the road, well, we want to talk further with the Board about that.

BY MR. RONES: I imagine they will be needing some controls on the hours of operation and control of noise and dust and --

BY MR. MCCARVILLE: You have a mining operation going on here. That is what it is, for two years.

BY MR. BENVIE: It is in all essence that is what the end product is going to be and that is why we, the way these plans, we started the preparation plan is to demonstrate how the process is going to go because we have shown progression, we have shown how the mining would progress and the second sheet we have shown we have indicated what kind of erosion controls measures would have to be implemented here to mitigate the concerns with any sedimentation programs.

BY MR. MCCARVILLE: We are going to have to see, there is a lot of things you have to do for erosion control, water run off.

BY MR. RONES: Better have a public hearing on that because there are a lot of surrounding property owners.

BY MR. MCCARVILLE: You are right on top of Fay and Garden.

BY MR. BABCOCK: Has the property been rezoned yet? I see there is some notes.

BY MR. BENVIE: It is my understanding the petition is filed

and has been acted on in favor of what is shown there.

BY MR. MCCARVILLE: The temporary staging for vehicles access, that is part of the --

BY MR. BENVIE: Mining operation, yes, because these plans that you have in front of you were prepared, we have already started in case that we have to go to the D.E.C., we have set up the plans so it could be submitted to D.E.C. and that is why a lot of the information here is more than what would be required for sketch plan submittal, but we are trying to coordinate the two submittal processes, one being the site plan approval, one being in the mining permit, so that if we could start doing some mining while the site plan approval process is underway. Once a sketch plan is agreed upon, I spoke with Mark and he indicated that the zoning ordinance does allow preliminary grading on site to be done during the process, during the review process, as long as it is, as long as there is a submittal made and there is a review underway, whereas you are not allowed to go in and just start taking dirt off the property.

BY MR. MCCARVILLE: Give you two years to work on the recreation.

BY MR. SCHIEFER: I am just wondering here, I hear comments, Mark says it is all right to go ahead.

BY MR. BENVIE: Mark said in the zoning ordinance, the way the ordinance is written is the way he understands it is that assuming we got the permit from the D.E.C. and we are in the process of going through the site plan approval with the town and we are past, I guess what would be the sketch plan where the concept is agreed upon, we have the town could or has the option to allow us to start grading plans.

BY MR. SCHIEFER: Now you are saying the town has given you approval to do this, the concept has been approved before you were saying when we submit it, we can go ahead.

BY MR. BENVIE: No, obviously from the sketch plan to the final approval is still a lot that transcends and during that time period --

BY MR. SCHIEFER: You can get approval to start some of the --

BY MR. BENVIE: Grading work.

BY MR. SCHIEFER: Not without approval, because we have had that happen before.

BY MR. BENVIE: After the sketch plan approval and the concept is agreed upon.

BY MR. SCHIEFER: No problem with that.

BY MR. SOUKUP: If you submitted an actual application --

BY MR. BENVIE: Mark suggested I come in tonight to present --

BY MR. SOUKUP: Your original?

BY MR. BENVIE: No.

BY MR. SOUKUP: Did you send an application with the --

BY MR. BENVIE: Yes.

BY MR. SOUKUP: Who signed that?

BY MR. BENVIE: It wasn't signed, that is one of the reasons they sent it back.

BY MR. SOUKUP: It wasn't signed by the supervisor? Who are the principals?

BY MR. BENVIE: John Smitchger, he is one of the principals in the ownership of the property and his family.

BY MR. SOUKUP: I think the question you have tonight is a choice of two things, either take out the plateau and have a mining operation of half a million yards for two to three years or require terracing of the project and maintain a site plan on a higher level with some of the vegetation saved. If you consider the site plan as you see in front of you, you will have a bare site to start with for site plan and that is the choice that you have tonight.

BY MR. MCCARVILLE: I think we should take a look at the property. I have never walked it.

BY MR. SCHIEFER: Before we make the decision, I'd like to go back and look at it. It is overgrown, you can't see what is in there.

BY MR. LANDER: Where is the nearest residence?

BY MR. BENVIE: There is subdivision back in here.

BY MR. LANDER: I mean down here, there is nothing?

BY MR. MCCARVILLE: There is a house on the corner that is vacant, I believe.

BY MR. SOUKUP: The depth of excavation in the bulk of the site is about 30 or 40 feet which wipes out everything. You will end up with a flat terrace.

BY MR. BENVIE: That is why we are going to go back and look at grading, but the intent is to take a large amount of property, not to go in and try to build to the existing contours but with a twofold purpose to take a good amount of the material off the property and also the end product being the apartment complex is to, I am not going to stand here and say that we will try to minimize grading because that is not one of the intents.

BY MR. SCHIEFER: You are not considering terracing?

BY MR. BENVIE: Well, in one of the things we are looking at was the back units raising them ten feet above the units here to take the cut slope in the back. It is a 30 foot cut slope and digress it to a 20 foot cut slope and benching that slope so we can break it up in order to get away from having a bowl or a huge wall.

BY MR. RONES: Aside from making the money out of the material, is there any other reason why you can't develop the site more along the contours that exist?

BY MR. BENVIE: It is very irregular right now. You have a cliff area in here and so you'd still have to do grading to grade out the middle portion over the site because now the way it exists somewhat of a cliff on the property.

BY MR. SOUKUP: I think the chairman suggesting we take a look at it.

BY MR. SCHIEFER: Before I make any recommendations, I definitely want to see it.

BY MR. BENVIE: The whole purpose of being here tonight was

to get in front of the Board and let you know what our ideas are and how we'd like to proceed, and get your feedback.

BY MR. PAGANO: You made a statement before that we, the Board, has not given any approval or permission. Can we repeat it again, please, so it is in the minutes several times?

BY MR. SCHIEFER: No permission given by this Board to start any mining or development of this site.

BY MR. RONES: Or any site clearing.

BY MR. SCHIEFER: Until we have gone down and taken a look at it because there is some concern do we want to take a half million yards out of here.

BY MR. SOUKUP: Do you know if there is any existing mining on this particular tract at this time?

BY MR. BENVIE: I don't know.

BY MR. SOUKUP: You walked the site, you have seen the property, haven't you?

BY MR. BENVIE: I was out there about a year ago.

BY MR. SOUKUP: You don't know if there is any recent mining?

BY MR. SMITCHGER: We have had a real problem with water coming down and washing down Ceasar's Lane. Mr. Fayo stopped in and he asked us to cut a new road up further so that the water would run, well the hill is like this and the road is on this side and it is washing down on 9W. He said cut a bank off here and bring the grade so that the water runs down into an existing sewer so we have been digging out dirt for that but that is about it. So when you go there you are going to see that we have been digging. You can check with Mr. Fayo.

BY MR. SOUKUP: Maybe we ought to ask Fred Fayo to try and join us that day.

BY MR. PAGANO: This concept is so vast and so big just the actual developing it is going to have an environmental impact, you know, the trucks, the movement of dirt, the sand, the dust and everything else. This is going to have to be

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examined very carefully from the development standpoint before the actual building goes up.

BY MR. SCHIEFER: Vince, were you aware of that when you asked that question?

BY MR. SOUKUP: Yes.

BY MR. SCHEIFER: I thought that you were.

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BUILDING INSPECTOR, PLANNING BOARD ENGINEER, FIRE INSPECTOR,
D.O.T., O.C.H., O.C.P., D.P.W., WATER, ~~SEWER~~, HIGHWAY, REVIEW
FORM:

The maps and plans for the Site Approval ✓
Subdivision _____ as submitted by
_____ for the building or subdivision of
TRI-FAM ASS. TOWNHOUSE COMPLEX has been
reviewed by me and is approved ✓
disapproved _____.

If disapproved, please list reason _____

APPROVAL GRANTED ON THE CONDITION OF TRI-FAM
SUPPLYING THIS DEPT. WITH AS-BUILT DRAWINGS
OF ALL SEWER HOOK-UPS UPON COMPLETION OF
PROJECT.

HIGHWAY SUPERINTENDENT

WATER SUPERINTENDENT

[Signature]
SANITARY SUPERINTENDENT

12-19-89

DATE

✓
U.C.M.E.

IOC.PB
TRI-FAM
SP

INTER OFFICE CORRESPONDENCE

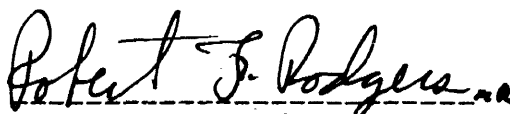
TO: Town Planning Board
FROM: Town Fire Inspector
DATE: 21 December 1989
SUBJECT: Tri-Fam Associates

PLANNING BOARD REFERENCE NUMBER: PB-89-47
DATED: 5 December 1989

FIRE PREVENTION REFERENCE NUMBER: FPS-89-112

The above referenced subject site plan is rejected for the following:

- 1) Road configuration, building height and parking will not allow for the fire department aerial apparatus to reach the structure.
- 2) Water main lines and hydrant locations are not shown on site plan.


Robert F. Rodgers; CCA
Fire Inspector

RR:mr
Att.

✓
CC: M.E.
TECTONIC

BUILDING INSPECTOR, PLANNING BOARD ENGINEER, FIRE INSPECTOR, [REDACTED]
 D.O.T., O.C.H., O.C.P., D.P.W., WATER, SEWER, HIGHWAY, REVIEW
 FORM:

The maps and plans for the Site Approval ✓

Subdivision _____ as submitted by Tectonic

Donald Benue for the building or subdivision of
Caesars Lane Townhouse Complex has been
 reviewed by me and is approved _____,
 disapproved ✓.

If disapproved, please list reason _____

A section of this project is not located within the
boundaries of SD#9.
Not enough information regarding building connection

 HIGHWAY SUPERINTENDENT

 WATER SUPERINTENDENT

Luman D. Masten Jr.
 SANITARY SUPERINTENDENT

December 18, 1989
 DATE

✓
 CC: M.E.
 TECTONIC

89 - 47

BUILDING INSPECTOR, PLANNING BOARD ENGINEER, FIRE INSPECTOR,
D.O.T., O.C.H., O.C.P., D.P.W., XXXXXX, SEWER, HIGHWAY, REVIEW
FORM:

The maps and plans for the Site Approval _____

Subdivision _____ as submitted by

Tectonic Eng. Cons. for the building or subdivision of

Tri-Lam Assoc. _____ has been

reviewed by me and is approved ✓

~~disapproved~~ _____

~~If disapproved, please list reason~~ _____

Water is available in this area -

HIGHWAY SUPERINTENDENT


WATER SUPERINTENDENT

SANITARY SUPERINTENDENT

DATE

✓
cc: M.E.

PLANNING BOARD
TOWN OF NEW WINDSOR

AS OF: 12/15/89

PAGE: 1

LISTING OF PLANNING BOARD FEES
MUNICIPAL CHARGES

FOR PROJECT NUMBER: 89-47

NAME: TRIFAM CEASAR LANE TOWNHOUSES
APPLICANT: TRI-FAM ASSOCIATES (JOHN SMITCHGER)

--DATE--	DESCRIPTION-----	TRANS	AMT-CHG	AMT-PAID	BAL-DUE
12/05/89	APPLICATION FEE	CHG	25.00		
			-----	-----	-----
		TOTAL:	25.00	0.00	25.00

PLANNING BOARD
TOWN OF NEW WINDSOR

AS OF: 12/15/89

PAGE: 1

LISTING OF PLANNING BOARD FEES
ESCROW ACCOUNT

FOR PROJECT NUMBER: 89-47

NAME: TRIFAM CEASAR LANE TOWNHOUSES
APPLICANT: TRI-FAM ASSOCIATES (JOHN SMITCHGER)

--DATE--	DESCRIPTION-----	TRANS	AMT-CHG	AMT-PAID	BAL-DUE
12/05/89	SITE PLAN ESCROW	PAID		1000.00	
			-----	-----	-----
		TOTAL:	0.00	1000.00	-1000.00

89 - 47

Planning Board
Town of New Windsor
555 Union Avenue
New Windsor, NY 12550

(This is a two-sided form)

Date Received _____
Meeting Date _____
Public Hearing _____
Action Date _____
Fees Paid _____

APPLICATION FOR SITE PLAN, SUBDIVISION PLAN,
OR LOT LINE CHANGE APPROVAL

1. Name of Project Trifam Caesar Lane Townhouses
2. Name of Applicant John Smitchger Phone 534-7874
Trifam Assoc.
Address 270 Main Street Cornwall NY 12518
(Street No. & Name) (Post Office) (State) (Zip)
3. Owner of Record _____ Phone _____
Address _____
(Street No. & Name) (Post Office) (State) (Zip)
4. Person Preparing Plan Tectonic Engineering phone 928-6531
Consultants P.C.
Address 600 Route 32 Highland Mills NY 10930
(Street No. & Name) (Post Office) (State) (Zip)
5. Attorney _____ Phone _____
Address _____
(Street No. & Name) (Post Office) (State) (Zip)
6. Person to be notified to represent applicant at Planning
Board Meeting Ross A. Winglovitz Phone 928-6531
(Name)
7. Location: On the North side of Cesar Lane
500 feet West (Street)
(Direction)
of US Route 9W
(Street)
8. Acreage of Parcel 16.158
9. Zoning District R-5
10. Tax Map Designation: Section 37 Block 1 Lot 31
47
11. This application is for Site Plan Approval

RECEIVED
TOWN OF NEW WINDSOR
PLANNING BOARD
DEC 5 1989

12/5/89 @

12. Has the Zoning Board of Appeals granted any variance or a Special Permit concerning this property? No

If so, list Case No. and Name _____

13. List all contiguous holdings in the same ownership

Section None Block _____ Lot(s) _____

Attached hereto is an affidavit of ownership indicating the dates the respective holdings of land were acquired, together with the liber and page of each conveyance into the present owner as recorded in the Orange County Clerk's Office. This affidavit shall indicate the legal owner of the property, the contract owner of the property and the date the contract of sale was executed.

IN THE EVENT OF CORPORATE OWNERSHIP: A list of all directors, officers and stockholders of each corporation owning more than five percent (5%) of any class of stock must be attached.

OWNER'S ENDORSEMENT

(Completion required ONLY if applicable)

COUNTY OF ORANGE

SS.:

STATE OF NEW YORK

John Smitchger being duly sworn, deposes and says that he resides at 270 Main Street, Cornwall in the County of Orange and State of New York and that he is (the owner in fee) of Trifam Assoc.

(Official Title)

of the Corporation which is the Owner in fee of the premises described in the foregoing application and that he has authorized Tectonic Engineering Consultants P.C. to make the foregoing application for Special Use Approval as described herein.

I HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS AND INFORMATION, AND ALL STATEMENTS AND INFORMATION CONTAINED IN THE SUPPORTING DOCUMENTS AND DRAWINGS ATTACHED HERETO ARE TRUE.

Sworn before me this

1st day of December 1989

[Signature]
(Owner's Signature)

[Signature]
(Applicant's Signature)

[Signature]
Notary Public

(Title)

SERENA C. GILBERT
NOTARY PUBLIC - STATE OF NEW YORK
QUALIFIED IN ORANGE COUNTY
BY COMM. EXPIRES 3/10/20

TOWN OF NEW WINDSOR PLANNING BOARD
SITE PLAN CHECKLIST

ITEM

- | | |
|--|-------------------------------------|
| 1. <u>X</u> Site Plan Title | 29. ___ Curbing Locations |
| 2. <u>X</u> Applicant's Name(s) | 30. ___ Curbing Through |
| 3. <u>X</u> Applicant's Address(es) | Section |
| 4. <u>X</u> Site Plan Preparer's Name | 31. ___ Catch Basin Locations |
| 5. <u>X</u> Site Plan Preparer's Address | 32. ___ Catch Basin Through |
| 6. <u>X</u> Drawing Date | Section |
| 7. <u>X</u> Revision Dates | 33. ___ Storm Drainage |
| X | 34. ___ Refuse Storage |
| 8. ___ AREA MAP INSET | 35. ___ Other Outdoor Storage |
| 9. <u>X</u> Site Designation | 36. ___ Water Supply |
| 10. <u>X</u> Properties Within 500 Feet | 37. ___ Sanitary Disposal Sys. |
| of Site | |
| 11. <u>X</u> Property Owners (Item #10) | 38. ___ Fire Hydrants |
| 12. <u>X</u> PLOT PLAN | 39. <u>X</u> Building Locations |
| 13. <u>X</u> Scale (1" = 50' or lesser) | 40. ___ Building Setbacks |
| 14. <u>X</u> Metes and Bounds | 41. ___ Front Building |
| 15. <u>X</u> Zoning Designation | Elevations |
| 16. <u>X</u> North Arrow | 42. <u>X</u> Divisions of Occupancy |
| 17. <u>X</u> Abutting Property Owners | 43. ___ Sign Details |
| 18. <u>X</u> Existing Building Locations | 44. <u>X</u> BULK TABLE INSET |
| 19. <u>X</u> Existing Paved Areas | 45. <u>X</u> Property Area (Nearest |
| 20. <u>X</u> Existing Vegetation | 100 sq. ft.) |
| 21. <u>X</u> Existing Access & Egress | 46. <u>X</u> Building Coverage (sq. |
| | ft.) |
| | 47. <u>X</u> Building Coverage (% |
| | of Total Area) |
| | 48. <u>X</u> Pavement Coverage (Sq. |
| | Ft.) |
| | 49. <u>X</u> Pavement Coverage (% |
| | of Total Area) |
| | 50. <u>X</u> Open Space (Sq. Ft.) |
| | 51. <u>X</u> Open Space (% of Total |
| | Area) |
| | 52. <u>X</u> No. of Parking Spaces |
| | Proposed. |
| | 53. <u>X</u> No. of Parking |
| | Required. |
- PROPOSED IMPROVEMENTS
22. ___ Landscaping
23. ___ Exterior Lighting
24. ___ Screening
25. X Access & Egress
26. X Parking Areas
27. ___ Loading Areas
28. ___ Paving Details
- (Items 25-27)

This list is provided as a guide only and is for the convenience of the Applicant. The Town of New Windsor Planning Board may require additional notes or revisions prior to granting approval.

PREPARER'S ACKNOWLEDGEMENT:

The Site Plan has been prepared in accordance with this checklist and the Town of New Windsor Ordinances, to the best of my knowledge.

By: Donal A. B.

Licensed Professional

Date: 12-4-89

PROXY STATEMENT

for submittal to the
TOWN OF NEW WINDSOR PLANNING BOARD

John Smitchger, deposes and says that he
resides at 270 Main Street - Cornwall
(Owner's Address)
in the County of Orange
and State of New York
and that he is the owner in fee of S 37 Bl Lot 31 and
S 47 Bl Lot 87

which is the premises described in the foregoing application and
that he has authorized _____
to make the foregoing application as described therein.

Date: DEC. 1ST 1989

[Signature]
(Owner's Signature)

[Signature]
(Witness' Signature)

617.21
Appendix A

SEQR

State Environmental Quality Review
FULL ENVIRONMENTAL ASSESSMENT FORM

Purpose: The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible to allow introduction of information to fit a project or action.

Full EAF Components: The full EAF is comprised of three parts:

- Part 1:** Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.
- Part 2:** Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.
- Part 3:** If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

DETERMINATION OF SIGNIFICANCE—Type 1 and Unlisted Actions

Identify the Portions of EAF completed for this project: ☒ Part 1 ☐ Part 2 ☐ Part 3

Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

- ☐ A. The project will not result in any large and important impact(s) and, therefore, is one which will not have a significant impact on the environment, therefore a **negative declaration will be prepared.**
- ☐ B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore a **CONDITIONED negative declaration will be prepared.***
- ☐ C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore a **positive declaration will be prepared.**

* A Conditioned Negative Declaration is only valid for Unlisted Actions

Trifam Caesar Lane Townhouse Complex

Name of Action

Name of Lead Agency

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)

Date

PART 1—PROJECT INFORMATION

89 - 47

Prepared by Project Sponsor

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

NAME OF ACTION Trifam Caesar Lane Townhouse Complex		
LOCATION OF ACTION (Include Street Address, Municipality and County) N.W. Corner Route 9W and Caesar		
NAME OF APPLICANT/SPONSOR John Smitchger - Trifam Assoc.		BUSINESS TELEPHONE (914) 534-7874
ADDRESS 270 Main Street		
CITY/PO Cornwall	STATE NY	ZIP CODE 12518
NAME OF OWNER (If different) Same		BUSINESS TELEPHONE ()
ADDRESS		
CITY/PO	STATE	ZIP CODE
DESCRIPTION OF ACTION Mining operation to be converted to residential townhouse units during reclamation.		

Please Complete Each Question— Indicate N.A. if not applicable

A. Site Description

Physical setting of overall project, both developed and undeveloped areas.

1. Present land use: ☐ Urban ☐ Industrial ☒ Commercial ☒ Residential (suburban) ☐ Rural (non-farm)
☐ Forest ☐ Agriculture ☐ Other _____

2. Total acreage of project area: 16.158 acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	<u>5.3</u> acres	<u>6.7</u> acres
Forested	<u>11.2</u> acres	<u>4.8</u> acres
Agricultural (Includes orchards, cropland, pasture, etc.)	_____ acres	_____ acres
Wetland (Freshwater or tidal as per Articles 24, 25 of ECL)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	_____ acres	_____ acres
Roads, buildings and other paved surfaces	_____ acres	<u>4.7</u> acres
Other (Indicate type) _____	_____ acres	_____ acres

3. What is predominant soil type(s) on project site? _____
- a. Soil drainage: ☒ Well drained 100 % of site ☐ Moderately well drained _____ % of site
☐ Poorly drained _____ % of site
- b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? N/A acres. (See 1 NYCRR 370).
4. Are there bedrock outcroppings on project site? ☐ Yes ☐ No
- a. What is depth to bedrock? 8' (in feet)

5. Approximate percentage of proposed project site with slopes: ☒ 0-10% 80 % ☒ 10-15% 10 %
☒ 15% or greater 10 %
6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or the National Registers of Historic Places? ☐ Yes ☒ No
7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks? ☐ Yes ☐ No
8. What is the depth of the water table? 8 (in feet)
9. Is site located over a primary, principal, or sole source aquifer? ☐ Yes ☒ No
10. Do hunting, fishing or shell fishing opportunities presently exist in the project area? ☐ Yes ☐ No
11. Does project site contain any species of plant or animal life that is identified as threatened or endangered?
☐ Yes ☒ No According to _____
Identify each species _____
12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations)
☒ Yes ☐ No Describe Existing Gravel Bank
13. Is the project site presently used by the community or neighborhood as an open space or recreation area?
☐ Yes ☒ No If yes, explain _____
14. Does the present site include scenic views known to be important to the community?
☐ Yes ☒ No
15. Streams within or contiguous to project area: Yes
a. Name of Stream and name of River to which it is tributary Woods Pond to Hudson River
16. Lakes, ponds, wetland areas within or contiguous to project area:
a. Name N/A b. Size (In acres) _____
17. Is the site served by existing public utilities? ☒ Yes ☐ No
a) If Yes, does sufficient capacity exist to allow connection? ☒ Yes ☐ No
b) If Yes, will improvements be necessary to allow connection? ☒ Yes ☐ No
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐ Yes ☒ No
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617? ☐ Yes ☒ No
20. Has the site ever been used for the disposal of solid or hazardous wastes? ☐ Yes ☒ No

B. Project Description

1. Physical dimensions and scale of project (fill in dimensions as appropriate)
- a. Total contiguous acreage owned or controlled by project sponsor 16.158 acres.
- b. Project acreage to be developed: 11.716 acres initially; 11.716 acres ultimately.
- c. Project acreage to remain undeveloped 4.442 acres.
- d. Length of project, in miles: N (If appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed NA %;
- f. Number of off-street parking spaces existing 0; proposed 143.
- g. Maximum vehicular trips generated per hour 42 (upon completion of project)?
- h. If residential: Number and type of housing units:
- | | One Family | Two Family | Multiple Family | Condominium |
|------------|------------|------------|-----------------|-------------|
| Initially | _____ | _____ | _____ | <u>5</u> |
| Ultimately | _____ | _____ | _____ | <u>5</u> |
- i. Dimensions (in feet) of largest proposed structure 35 height; 40 width; 160 length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? 1520 ft.

2. How much natural material (i.e., rock, earth, etc.) will be removed from the site? 200,000 tons/cubic yards
3. Will disturbed areas be reclaimed? ☒ Yes ☐ No ☐ N/A
- a. If yes, for what intended purpose is the site being reclaimed? Residential Housing
- b. Will topsoil be stockpiled for reclamation? ☐ Yes ☒ No
- c. Will upper subsoil be stockpiled for reclamation? ☐ Yes ☒ No
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? 12+ acres.
5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?
☐ Yes ☒ No
6. If single phase project: Anticipated period of construction 24+ months, (including demolition).
7. If multi-phased:
- a. Total number of phases anticipated 2 (number).
- b. Anticipated date of commencement phase 1 JAN month 91 year, (including demolition).
- c. Approximate completion date of final phase JAN month 96 year.
- d. Is phase 1 functionally dependent on subsequent phases? ☐ Yes ☐ No
8. Will blasting occur during construction? ☐ Yes ☒ No
9. Number of jobs generated: during construction 20; after project is complete 2.
10. Number of jobs eliminated by this project 0.
11. Will project require relocation of any projects or facilities? ☐ Yes ☒ No If yes, explain _____
12. Is surface liquid waste disposal involved? ☒ Yes ☐ No
- a. If yes, indicate type of waste (sewage, industrial, etc.) and amount Sewage
- b. Name of water body into which effluent will be discharged Moodna Creek
13. Is subsurface liquid waste disposal involved? ☐ Yes ☒ No Type _____
14. Will surface area of an existing water body increase or decrease by proposal? ☐ Yes ☒ No
Explain _____
15. Is project or any portion of project located in a 100 year flood plain? ☐ Yes ☒ No
16. Will the project generate solid waste? ☒ Yes ☐ No
- a. If yes, what is the amount per month 15.3 tons
- b. If yes, will an existing solid waste facility be used? ☒ Yes ☐ No
- c. If yes, give name Orange County Landfill; location Hamptonburgh
- d. Will any wastes not go into a sewage disposal system or into a sanitary landfill? ☐ Yes ☒ No
- e. If Yes, explain _____
17. Will the project involve the disposal of solid waste? ☐ Yes ☒ No
- a. If yes, what is the anticipated rate of disposal? _____ tons/month.
- b. If yes, what is the anticipated site life? _____ years.
18. Will project use herbicides or pesticides? ☐ Yes ☒ No
19. Will project routinely produce odors (more than one hour per day)? ☐ Yes ☒ No
20. Will project produce operating noise exceeding the local ambient noise levels? ☐ Yes ☒ No
21. Will project result in an increase in energy use? ☒ Yes ☐ No
If yes, indicate type(s) Electric, Natural Gas
22. If water supply is from wells, indicate pumping capacity N/A gallons/minute.
23. Total anticipated water usage per day 10,200 gallons/day.
24. Does project involve Local, State or Federal funding? ☐ Yes ☒ No
If Yes, explain _____

25. Approvals Required:

Type

Submittal
Date

City, Town, Village Board	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
City, Town, Village Planning Board	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<u>Site Plan</u>	<u>12-6-89</u>
City, Town Zoning Board	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
City, County Health Department	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Other Local Agencies	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Other Regional Agencies	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
State Agencies	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<u>N.Y.S. DEC Mining Report</u>	<u>9-22-89</u>
Federal Agencies	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

C. Zoning and Planning Information

1. Does proposed action involve a planning or zoning decision? ☒ Yes ☐ No

If Yes, indicate decision required:

☐ zoning amendment ☐ zoning variance ☐ special use permit ☐ subdivision ☒ site plan
☐ new/revision of master plan ☐ resource management plan ☐ other _____

2. What is the zoning classification(s) of the site? R-5
3. What is the maximum potential development of the site if developed as permitted by the present zoning?

4. What is the proposed zoning of the site? N/A
5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?
N/A
6. Is the proposed action consistent with the recommended uses in adopted local land use plans? ☒ Yes ☐ No
7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?
R-4
8. Is the proposed action compatible with adjoining/surrounding land uses within a ¼ mile? ☒ Yes ☐ No
9. If the proposed action is the subdivision of land, how many lots are proposed? N/A
 a. What is the minimum lot size proposed? _____
10. Will proposed action require any authorization(s) for the formation of sewer or water districts? ☐ Yes ☒ No
11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)? ☒ Yes ☐ No
 a. If yes, is existing capacity sufficient to handle projected demand? ☒ Yes ☐ No
12. Will the proposed action result in the generation of traffic significantly above present levels? ☐ Yes ☒ No
 a. If yes, is the existing road network adequate to handle the additional traffic? ☐ Yes ☐ No

D. Informational Details

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

E. Verification

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name Ross A. Winglovitz - Tectonic Engineering Date 12-1
 Signature Ross A. Winglovitz Title Project Engineer

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

Part 2—PROJECT IMPACTS AND THEIR MAGNITUDE

Responsibility of Lead Agency

General Information (Read Carefully)

- In completing the form the reviewer should be guided by the question: Have my responses and determinations been reasonable? The reviewer is not expected to be an expert environmental analyst.
- Identifying that an impact will be potentially large (column 2) does not mean that it is also necessarily significant. Any large impact must be evaluated in PART 3 to determine significance. Identifying an impact in column 2 simply asks that it be looked at further.
- The Examples provided are to assist the reviewer by showing types of impacts and wherever possible the threshold of magnitude that would trigger a response in column 2. The examples are generally applicable throughout the State and for most situations. But, for any specific project or site other examples and/or lower thresholds may be appropriate for a Potential Large Impact response, thus requiring evaluation in Part 3.
- The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.
- The number of examples per question does not indicate the importance of each question.
- In identifying impacts, consider long term, short term and cumulative effects.

Instructions (Read carefully)

- Answer each of the 19 questions in PART 2. Answer Yes if there will be any impact.
- Maybe answers should be considered as Yes answers.
- If answering Yes to a question then check the appropriate box (column 1 or 2) to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur but threshold is lower than example, check column 1.
- If reviewer has doubt about size of the impact then consider the impact as potentially large and proceed to PART 3.
- If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the Yes box in column 3. A No response indicates that such a reduction is not possible. This must be explained in Part 3.

IMPACT ON LAND

1. Will the proposed action result in a physical change to the project site?
☐ NO ☐ YES

Examples that would apply to column 2

- Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%.
- Construction on land where the depth to the water table is less than 3 feet.
- Construction of paved parking area for 1,000 or more vehicles.
- Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.
- Construction that will continue for more than 1 year or involve more than one phase or stage.
- Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.
- Construction or expansion of a sanitary landfill.
- Construction in a designated floodway.
- Other impacts _____

2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.) ☐ NO ☐ YES

- Specific land forms: _____

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

IMPACT ON WATER

3. Will proposed action affect any water body designated as protected?
(Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL)

Examples that would apply to column 2

- Developable area of site contains a protected water body.
- Dredging more than 100 cubic yards of material from channel of a protected stream.
- Extension of utility distribution facilities through a protected water body.
- Construction in a designated freshwater or tidal wetland.
- Other impacts: _____

4. Will proposed action affect any non-protected existing or new body of water? ☐NO ☐YES

Examples that would apply to column 2

- A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease.
- Construction of a body of water that exceeds 10 acres of surface area.
- Other impacts: _____

5. Will Proposed Action affect surface or groundwater quality or quantity? ☐ NO ☐ YES

Examples that would apply to column 2

- Proposed Action will require a discharge permit.
- Proposed Action requires use of a source of water that does not have approval to serve proposed (project) action.
- Proposed Action requires water supply from wells with greater than 45 gallons per minute pumping capacity.
- Construction or operation causing any contamination of a water supply system.
- Proposed Action will adversely affect groundwater.
- Liquid effluent will be conveyed off the site to facilities which presently do not exist or have inadequate capacity.
- Proposed Action would use water in excess of 20,000 gallons per day.
- Proposed Action will likely cause siltation or other discharge into an existing body of water to the extent that there will be an obvious visual contrast to natural conditions.
- Proposed Action will require the storage of petroleum or chemical products greater than 1,100 gallons.
- Proposed Action will allow residential uses in areas without water and/or sewer services.
- Proposed Action locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities.
- Other impacts: _____

6. Will proposed action alter drainage flow or patterns, or surface water runoff? ☐ NO ☐ YES

Examples that would apply to column 2

- Proposed Action would change flood water flows.

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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- Proposed Action may cause substantial erosion.
- Proposed Action is incompatible with existing drainage patterns.
- Proposed Action will allow development in a designated floodway.
- Other impacts: _____

IMPACT ON AIR

7. Will proposed action affect air quality? ☐ NO ☐ YES

Examples that would apply to column 2

- Proposed Action will induce 1,000 or more vehicle trips in any given hour.
- Proposed Action will result in the incineration of more than 1 ton of refuse per hour.
- Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour.
- Proposed action will allow an increase in the amount of land committed to industrial use.
- Proposed action will allow an increase in the density of industrial development within existing industrial areas.
- Other impacts: _____

IMPACT ON PLANTS AND ANIMALS

8. Will Proposed Action affect any threatened or endangered species? ☐ NO ☐ YES

Examples that would apply to column 2

- Reduction of one or more species listed on the New York or Federal list, using the site, over or near site or found on the site.
- Removal of any portion of a critical or significant wildlife habitat.
- Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.
- Other impacts: _____

9. Will Proposed Action substantially affect non-threatened or non-endangered species? ☐ NO ☐ YES

Examples that would apply to column 2

- Proposed Action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.
- Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation.

IMPACT ON AGRICULTURAL LAND RESOURCES

10. Will the Proposed Action affect agricultural land resources? ☐ NO ☐ YES

Examples that would apply to column 2

- The proposed action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change	
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- Construction activity would excavate or compact the soil profile of agricultural land.
- The proposed action would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land.
- The proposed action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff)
- Other impacts: _____

IMPACT ON AESTHETIC RESOURCES

11. Will proposed action affect aesthetic resources? ☐ NO ☐ YES
(If necessary, use the Visual EAF Addendum in Section 617.21, Appendix B.)

Examples that would apply to column 2

- Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.
- Proposed land uses, or project components visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource.
- Project components that will result in the elimination or significant screening of scenic views known to be important to the area.
- Other impacts: _____

IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES

12. Will Proposed Action impact any site or structure of historic, pre-historic or paleontological importance? ☐ NO ☐ YES

Examples that would apply to column 2

- Proposed Action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of historic places.
- Any impact to an archaeological site or fossil bed located within the project site.
- Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.
- Other impacts: _____

IMPACT ON OPEN SPACE AND RECREATION

13. Will Proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities?

Examples that would apply to column 2 ☐ NO ☐ YES

- The permanent foreclosure of a future recreational opportunity.
- A major reduction of an open space important to the community.
- Other impacts: _____

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change	
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IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD

18. Will proposed action affect the character of the existing community?
☐ NO ☐ YES

Examples that would apply to column 2

- The permanent population of the city, town or village in which the project is located is likely to grow by more than 5%.
- The municipal budget for capital expenditures or operating services will increase by more than 5% per year as a result of this project.
- Proposed action will conflict with officially adopted plans or goals.
- Proposed action will cause a change in the density of land use.
- Proposed Action will replace or eliminate existing facilities, structures or areas of historic importance to the community.
- Development will create a demand for additional community services (e.g. schools, police and fire, etc.)
- Proposed Action will set an important precedent for future projects.
- Proposed Action will create or eliminate employment.
- Other impacts: _____

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
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19. Is there, or is there likely to be, public controversy related to potential adverse environmental impacts?
☐ NO ☐ YES

**If Any Action in Part 2 Is Identified as a Potential Large Impact or
If You Cannot Determine the Magnitude of Impact, Proceed to Part 3**

Part 3—EVALUATION OF THE IMPORTANCE OF IMPACTS

Responsibility of Lead Agency

Part 3 must be prepared if one or more impact(s) is considered to be potentially large, even if the impact(s) may be mitigated.

Instructions

Discuss the following for each impact identified in Column 2 of Part 2:

1. Briefly describe the impact.
2. Describe (if applicable) how the impact could be mitigated or reduced to a small to moderate impact by project change(s).
3. Based on the information available, decide if it is reasonable to conclude that this impact is **important**.

To answer the question of importance, consider:

- The probability of the impact occurring
- The duration of the impact
- Its irreversibility, including permanently lost resources of value
- Whether the impact can or will be controlled
- The regional consequence of the impact
- Its potential divergence from local needs and goals
- Whether known objections to the project relate to this impact.

(Continue on attachments)